

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,) CR-18-00258-EJD
)
PLAINTIFF,) SAN JOSE, CALIFORNIA
)
VS.) APRIL 13, 2022
)
RAMESH "SUNNY" BALWANI,) VOLUME 17
)
DEFENDANT.) PAGES 2465 - 2724
)

)
SEALED PAGES 2718 - 2724

TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE EDWARD J. DAVILA
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: UNITED STATES ATTORNEY'S OFFICE
BY: JOHN C. BOSTIC
JEFFREY B. SCHENK
150 ALMADEN BOULEVARD, SUITE 900
SAN JOSE, CALIFORNIA 95113

BY: ROBERT S. LEACH
KELLY VOLKAR
1301 CLAY STREET, SUITE 340S
OAKLAND, CALIFORNIA 94612

(APPEARANCES CONTINUED ON THE NEXT PAGE.)

OFFICIAL COURT REPORTER:
IRENE L. RODRIGUEZ, CSR, RMR, CRR
CERTIFICATE NUMBER 8074

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

A P P E A R A N C E S: (CONT'D)

FOR DEFENDANT BALWANI: ORRICK, HERRINGTON & SUTCLIFFE LLP
BY: MOLLY MCCAFFERTY
SHAWN ESTRADA
THE ORRICK BUILDING
405 HOWARD STREET
SAN FRANCISCO, CALIFORNIA 94105

BY: JEFFREY COOPERSMITH
AARON BRECHER
AMANDA MCDOWELL
701 FIFTH AVENUE, SUITE 5600
SEATTLE, WASHINGTON 98104

BY: STEPHEN CAZARES
77 SOUTH FIGUEROA STREET, SUITE 3200
LOS ANGELES, CALIFORNIA 90017

BY: AMY WALSH
51 W 52ND STREET
NEW YORK, NEW YORK 10019

ALSO PRESENT:

OFFICE OF THE U.S. ATTORNEY
BY: MADDI WACHS, PARALEGAL
SARA SLATTERY, PARALEGAL

ORRICK, HERRINGTON & SUTCLIFFE
JENNIFER CYGNOR, PARALEGAL

PROLUMINA
BY: COREY ALLEN
2200 SIXTH AVENUE, SUITE 425
SEATTLE, WASHINGTON 98121

UNITED STATES POSTAL INSPECTION SERVICE
BY: CHRISTOPHER MCCOLLOWS

FEDERAL BUREAU OF INVESTIGATION
BY: MARIO C. SCUSSEL

UNITED STATES FOOD & DRUG
ADMINISTRATION
BY: GEORGE SCAVDIS

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SAN JOSE, CALIFORNIA

APRIL 13, 2022

P R O C E E D I N G S

(COURT CONVENED AT 8:36 A.M.)

(JURY OUT AT 8:36 A.M.)

THE COURT: LET'S GO ON THE RECORD IN THE BALWANI
MATTER.

ALL COUNSEL ARE PRESENT. MR. BALWANI IS PRESENT.

WE'RE OUTSIDE OF THE PRESENCE OF THE JURY.

I THINK WE WERE GOING TO TALK THIS MORNING REGARDING THE
DEFENSE DOCKET 1396 FILED ON APRIL 8TH. THE GOVERNMENT HAS
THIS, I THINK.

MR. BOSTIC, DO YOU WANT TO SPEAK TO THIS?

MR. BOSTIC: YES, YOUR HONOR.

THE COURT: I'VE READ AND REVIEWED THIS PLEADING.

MR. BOSTIC: YES. GOOD MORNING, YOUR HONOR. THANK
YOU.

FIRST OF ALL, I THINK WE CAN NARROW THE ISSUES FOR THE
COURT'S CONSIDERATION THIS MORNING A LITTLE BIT.

FIRST OF ALL, IN FINALIZING THE GOVERNMENT'S OUTLINE FOR
TODAY, THERE'S SOME EXHIBITS THAT WE WILL NOT PLAN TO INTRODUCE
THROUGH MR. EDLIN. I THINK THE ONLY EXHIBITS RAISED BY THE
DEFENSE THAT WE STILL NEED TO ADDRESS ARE EXHIBITS 504 AND
1776.

SO THE GOVERNMENT DOES NOT PLAN TO INTRODUCE 551, 983 OR
1496.

08:37AM 1 THE COURT: OKAY. THANK YOU.

08:37AM 2 MS. WALSH, ARE YOU WITHDRAWING YOUR MOTION THEN?

08:37AM 3 MS. WALSH: NO, YOUR HONOR.

08:37AM 4 (LAUGHTER.)

08:37AM 5 MR. BOSTIC: YOUR HONOR, IF I COULD TAKE THOSE IN
08:37AM 6 REVERSE ORDER AND START WITH 1776?

08:38AM 7 THE COURT: SURE.

08:38AM 8 MR. BOSTIC: 1776 IS THE "FORTUNE" ARTICLE WRITTEN
08:38AM 9 BY ROGER PARLOFF AND PUBLISHED IN JUNE OF 2013. THAT ARTICLE
08:38AM 10 IS NOT COMING IN FOR ITS TRUTH. IT'S NOT BEING OFFERED FOR
08:38AM 11 THAT PURPOSE. IT CONTAINS FALSE AND MISLEADING STATEMENTS
08:38AM 12 ABOUT THERANOS.

08:38AM 13 THE COURT IS AWARE FROM THE PREVIOUS TRIAL AND FROM
08:38AM 14 EVIDENCE THAT HAS BEEN SUBMITTED IN VARIOUS PLEADINGS THAT
08:38AM 15 MS. HOLMES WAS INTERVIEWED IN CONNECTION WITH THAT PIECE. SHE
08:38AM 16 MADE STATEMENTS TO THE WRITER, MR. PARLOFF, AND THEN THOSE
08:38AM 17 STATEMENTS FORMED THE BASIS OF SOME OF THE CLAIMS AND QUOTES IN
08:38AM 18 THAT ARTICLE.

08:38AM 19 WHAT IS EVEN MORE IMPORTANT IS THAT THERANOS SUBSEQUENTLY
08:38AM 20 SENT THAT ARTICLE TO INVESTORS IN THIS CASE, AND THAT IS IN
08:38AM 21 TRIAL EXHIBIT 1770. I'M SORRY, I DON'T HAVE A COPY.

08:38AM 22 BUT THAT WAS INTRODUCED IN THE LAST TRIAL, AN EMAIL FROM
08:38AM 23 THERANOS TO ALL OF THE SHAREHOLDERS ATTACHING THAT VERY ARTICLE
08:39AM 24 ACTUALLY FOR THE PURPOSE OF SENDING AROUND THAT ARTICLE.

08:39AM 25 SO 1776 AND ITS CONTENT ARE IMPORTANT NOT TO PROVE THE

08:39AM 1 TRUTH OF WHAT IS IN THAT ARTICLE, BUT BECAUSE THE ARTICLE
08:39AM 2 ITSELF WAS A TOOL THAT THE DEFENDANTS USED TO SPREAD FALSE
08:39AM 3 INFORMATION ABOUT THE COMPANY.

08:39AM 4 AND EVEN THE FACT THAT THE DEFENDANT KNEW THAT THAT
08:39AM 5 CONTENT WAS OUT THERE IN THE PUBLIC IS RELEVANT HERE BECAUSE OF
08:39AM 6 THE WAY THAT THAT ARTICLE WAS USED TO PROPAGATE THOSE
08:39AM 7 MISUNDERSTANDINGS ABOUT THE COMPANY AND AID IN THE FRAUD.

08:39AM 8 SO FOR THAT REASON IT'S NOT COMING IN FOR HEARSAY
08:39AM 9 PURPOSES.

08:39AM 10 THE COURT: SO DOES THERE HAVE TO BE A CONNECTION TO
08:39AM 11 MR. BALWANI? THE OTHER TRIAL, THE PATH FOR THAT WAS A LITTLE
08:39AM 12 DIFFERENT.

08:39AM 13 BUT I WAS JUST CURIOUS ABOUT THIS, THINKING ABOUT THIS,
08:39AM 14 DOES THERE HAVE TO BE A DIFFERENT PATH AS TO MR. BALWANI, THAT
08:39AM 15 IS, AS YOU SAY THE PARLOFF ARTICLE WAS PART OF A PACKET SENT TO
08:40AM 16 INVESTORS TO SUPPORT, I SUPPOSE, ENTICE, WHATEVER, POSITIVE
08:40AM 17 INVESTMENT DECISIONS.

08:40AM 18 DOES THERE HAVE TO BE A NEXUS CONNECTION TO MR. BALWANI
08:40AM 19 REGARDING ADMISSIBILITY TODAY? I SUPPOSE THE SUB QUESTION IS
08:40AM 20 IT PREMATURE? IS IT APPROPRIATE TO GET THAT IN NOW THROUGH
08:40AM 21 THIS WITNESS WITHOUT A CONTEXT OF THAT?

08:40AM 22 MR. BOSTIC: I THINK, YOUR HONOR, THAT THE NEXUS OR
08:40AM 23 THE CONNECTION TO MR. BALWANI IS BY VIRTUE OF HIS PARTICIPATION
08:40AM 24 IN THE CONSPIRACY, AND I THINK THE PARTIES HAVE HAD SUFFICIENT
08:40AM 25 TIME TO REVIEW THE RELEVANT LAW ON COCONSPIRATOR LIABILITY AND

08:40AM 1 VICARIOUS LIABILITY. AND WE KNOW THAT IT'S NOT THE CASE THAT
08:40AM 2 JUST BECAUSE AN ACT IS COMMITTED BY A COCONSPIRATOR THAT IT'S
08:40AM 3 NOT ADMISSIBLE AGAINST THE OTHER COCONSPIRATOR.

08:41AM 4 SO HERE THE FACT THAT MS. HOLMES WAS THE ONE WHO SAT FOR
08:41AM 5 THAT INTERVIEW DOESN'T MEAN THAT THE CONTENT OF THAT ARTICLE
08:41AM 6 ISN'T ADMISSIBLE AS TO MR. BALWANI.

08:41AM 7 IT WAS A TOOL THAT WAS USED TO ACCOMPLISH THE AIMS OF
08:41AM 8 THEIR SHARE IN THE CONSPIRACY TO DEFRAUD INVESTORS, AND
08:41AM 9 ACTUALLY PATIENTS AS WELL, BECAUSE EVERYTHING THAT IS IN THE
08:41AM 10 PUBLIC VIEW, EVERY ARTICLE THAT GOES OUT WOULD HAVE BEEN
08:41AM 11 INTENDED BY THE DEFENDANTS TO INFLUENCE NOT JUST INVESTORS BUT
08:41AM 12 ALSO PATIENTS WHO ARE CONSIDERING WHERE TO HAVE THEIR BLOOD
08:41AM 13 TESTING DONE.

08:41AM 14 SO THE DEFENDANT'S KNOWLEDGE OF THAT CONTENT, HIS
08:41AM 15 AWARENESS OF IT, AND ANY USE BY MS. HOLMES OR INFLUENCE THAT
08:41AM 16 MS. HOLMES HAD OVER THE CONTENT IS RELEVANT IN THIS CASE
08:41AM 17 BECAUSE THOSE WERE FORESEEABLE STEPS TAKEN TO ACCOMPLISH THE
08:41AM 18 CONSPIRACY THAT THESE TWO DEFENDANTS JOINED IN TOGETHER.

08:41AM 19 THE COURT: SO -- IN CONCEPT, I AGREE WITH
08:41AM 20 EVERYTHING YOU'VE SAID. I SUPPOSE MY QUESTION IS HAS THERE
08:42AM 21 BEEN A PRIMA FACIE CONSPIRACY SHOWN YET? AND I'D BE HAPPY TO
08:42AM 22 HEAR FROM YOU ABOUT THAT.

08:42AM 23 THAT I THINK WOULD BE THE CONDITION PRECEDENT AT LEAST FOR
08:42AM 24 SOME OTHER COCONSPIRATOR'S STATEMENTS, ET CETERA, AT LEAST A
08:42AM 25 BASIS FOR THAT ADMISSIBILITY.

08:42AM 1 AND BECAUSE I'M ASKING THE QUESTION, PERHAPS IT SUGGESTS
08:42AM 2 THAT I HAVE A QUESTION ABOUT THAT.

08:42AM 3 MR. BOSTIC: SO, YOUR HONOR, I THINK THERE HAS BEEN
08:42AM 4 AND I THINK THAT WILL BE FURTHER DEVELOPED TODAY THROUGH
08:42AM 5 MR. EDLIN'S ADDITIONAL TESTIMONY.

08:42AM 6 WE HAVE HEARD ABOUT THE DEFENDANT'S INVOLVEMENT IN THE
08:42AM 7 CLIA LAB WHERE PATIENT TESTING WAS CONDUCTED, HIS AWARENESS IN
08:42AM 8 THAT REGARD AND HIS COMMUNICATIONS WITH MS. HOLMES AND
08:42AM 9 COMMUNICATIONS INCLUDING MS. HOLMES WHERE SHE ALSO KNEW ABOUT
08:42AM 10 THOSE ISSUES.

08:42AM 11 WE'VE ALSO HEARD ABOUT INTERACTIONS WHERE THEY WERE
08:43AM 12 ALIGNED IN, FOR EXAMPLE, SHUTTING DOWN A REQUEST FROM
08:43AM 13 DR. PANDORI TO HAVE REGULAR MEETINGS WHERE THE TECHNICAL PEOPLE
08:43AM 14 COULD MAKE SURE THAT MS. HOLMES HAD ACCURATE INFORMATION TO
08:43AM 15 CONVEY ABOUT THE TESTING AND WHAT WAS AVAILABLE.

08:43AM 16 MR. BALWANI WAS THE ONE WHO SAID, I THINK, QUOTE, "THAT'S
08:43AM 17 NOT GOING TO HAPPEN," AND MS. HOLMES DID NOT OBJECT.

08:43AM 18 SO WE HAVE SEEN SEVERAL DOCUMENTS, AND WE'VE HEARD
08:43AM 19 TESTIMONY ABOUT THESE TWO DEFENDANTS BEING ALIGNED IN BOTH
08:43AM 20 THEIR KNOWLEDGE OF THOSE ISSUES AND THEIR INTENTION TO CONTINUE
08:43AM 21 TO USE THE FLAWED DEVICES FOR PATIENT TESTING. I THINK THAT
08:43AM 22 DOES SATISFY A PRIMA FACIE CONSPIRACY CASE AS TO THE PATIENT
08:43AM 23 COUNTS AND THAT SIDE OF THINGS.

08:43AM 24 ON THE INVESTOR SIDE, WE'RE STARTING TO GET INTO SOME OF
08:43AM 25 THE WEBSITE CONTENT, AND I THINK WE'LL SEE SOME MORE OF THAT

08:43AM 1 THIS MORNING WITH MR. EDLIN.

08:43AM 2 THERE WILL BE EXHIBITS SHOWING THAT SOME OF THE MISLEADING
08:43AM 3 INFORMATION THAT WAS HIGHLIGHTED BY COUNSEL IN ADVANCE OF THE
08:44AM 4 RELEASE OF THE WEBSITE AND THE LAUNCH STILL ENDED UP ON THE
08:44AM 5 WEBSITE, LANGUAGE CLAIMING THE HIGHEST LEVELS OF QUALITY,
08:44AM 6 HIGHEST LEVELS OF ACCURACY, THINGS LIKE THAT REMAINED ON THE
08:44AM 7 WEBSITE TO BE VIEWED BY BOTH POTENTIAL PATIENTS AND POTENTIAL
08:44AM 8 INVESTORS, AND WE'LL HEAR TESTIMONY ABOUT HOLMES AND BALWANI'S
08:44AM 9 INVOLVEMENT IN THAT WEBSITE FINALIZATION. SO I THINK THAT WILL
08:44AM 10 MAKE SOME PROGRESS THERE ALSO.

08:44AM 11 FINALLY, WE'LL HEAR ABOUT SOME OF THE CONTENT OF THE
08:44AM 12 INVESTOR PRESENTATION THROUGH MR. EDLIN. I PLAN TO INTRODUCE
08:44AM 13 AN EXAMPLE INVESTOR PRESENTATION THROUGH HIM. AND AS THE COURT
08:44AM 14 KNOWS FROM THE LAST TRIAL, THOSE PRESENTATIONS CONTAIN SEVERAL
08:44AM 15 EXAMPLES OF THESE FALSE STATEMENTS OR MISLEADING STATEMENTS
08:44AM 16 ABOUT WHAT THE COMPANY COULD DO, WHAT IT HAD DONE, AND WE'LL
08:44AM 17 HEAR ABOUT, AGAIN, MS. HOLMES AND MR. BALWANI'S INVOLVEMENT ON
08:44AM 18 THAT SIDE OF THINGS.

08:44AM 19 THE COURT: SO THAT'S THE -- AND, MS. WALSH, I KNOW
08:45AM 20 YOU'RE EAGER TO SPEAK.

08:45AM 21 BUT THAT'S THE PIECE, CANDIDLY, FULL TRANSPARENCY, THAT'S
08:45AM 22 THE PIECE THAT IS MISSING FOR ME NOW IS THAT I JUST DON'T SEE A
08:45AM 23 ROBUST PRIMA FACIE SHOWING AT THIS POINT.

08:45AM 24 MS. WALSH.

08:45AM 25 MS. WALSH: YES, YOUR HONOR.

08:45AM 1 SO I AGREE, I DON'T THINK A PRIMA FACIE CONSPIRACY TO
08:45AM 2 DEFRAUD PATIENTS OR INVESTORS HAS BEEN SHOWN AT THIS POINT.

08:45AM 3 AND AS TO MR. EDLIN, REGARDING THE WEBSITE IN PARTICULAR,
08:45AM 4 SINCE MR. BOSTIC RAISED THAT, YOU KNOW, MR. BOSTIC ELICITED
08:45AM 5 THAT MR. EDLIN DIDN'T REMEMBER WHETHER THOSE CHANGES WERE MADE,
08:45AM 6 AND WE SENT THE GOVERNMENT THE ACTUAL WEB PAGES TO SHOW THAT
08:45AM 7 MANY OF THOSE CHANGES WERE IN FACT MADE.

08:45AM 8 SO, ACTUALLY, THE EVIDENCE IS GOING TO SHOW MANY OF THE
08:45AM 9 CHANGES RECOMMENDED BY LAWYERS WERE MADE ON THE WEBSITE. MAYBE
08:45AM 10 NOT ALL OF THEM. IT WASN'T PERFECT. BUT MANY OF THEM WERE
08:45AM 11 MADE.

08:45AM 12 SO I DON'T THINK THE WEBSITE TESTIMONY IS GOING TO BRING
08:46AM 13 US ANY CLOSER TO A PRIMA FACIE CASE FOR CONSPIRACY.

08:46AM 14 SAME THING WITH WALGREENS MARKETING LITERATURE. YOU KNOW,
08:46AM 15 I THINK THE EVIDENCE WILL SHOW THAT THE COMPANY WAS DOING ITS
08:46AM 16 BEST TO IMPLEMENT CHANGES RECOMMENDED BY THE LAWYERS IN THAT
08:46AM 17 MARKETING MATERIAL.

08:46AM 18 SO I AGREE, I DON'T THINK A PRIMA FACIE CONSPIRACY HAS
08:46AM 19 BEEN SHOWN, AND I'M NOT SURE IT WILL BE THROUGH MR. EDLIN.

08:46AM 20 ON THE PARLOFF ARTICLE IN PARTICULAR, THERE'S ANOTHER
08:46AM 21 HEARSAY HURDLE THAT THE GOVERNMENT NEEDS TO GET OVER, AND THAT
08:46AM 22 IS THAT THE STATEMENTS MS. HOLMES MADE TO MR. PARLOFF, THAT SHE
08:46AM 23 ACTUALLY MADE THOSE PARTICULAR STATEMENTS THAT ARE IN THE
08:46AM 24 ARTICLE. SO THAT HE TOOK THEM DOWN ACCURATELY, AND THAT IS IN
08:46AM 25 FACT, WHAT SHE SAID.

08:46AM 1 THE GOVERNMENT IN THE LAST TRIAL CALLED MR. PARLOFF TO
08:46AM 2 TESTIFY FOR THIS VERY REASON, TO ESTABLISH THAT THAT'S WHAT SHE
08:46AM 3 TOLD HIM, AND I DON'T SEE ANY REASON WHY HE SHOULDN'T HAVE TO
08:47AM 4 TESTIFY HERE LIKEWISE.

08:47AM 5 THE COURT: OKAY.

08:47AM 6 MR. BOSTIC: SO, YOUR HONOR, GOING IN REVERSE ORDER,
08:47AM 7 I DON'T BELIEVE THAT EXHIBIT 1776 WAS ADMITTED THROUGH
08:47AM 8 MR. PARLOFF IN THE LAST TRIAL. IT WAS ALREADY IN EVIDENCE.

08:47AM 9 SO HIS TESTIMONY THAT MS. HOLMES SAID THOSE STATEMENTS WAS
08:47AM 10 NOT A PRECONDITION FOR ADMISSION, AND NOR SHOULD IT BE HERE.

08:47AM 11 THE COURT: I THINK IT CAME IN WITHOUT OBJECTION IF
08:47AM 12 I RECALL.

08:47AM 13 MR. BOSTIC: THAT MAY BE CORRECT, YOUR HONOR.

08:47AM 14 AND I THINK A SIMILAR SEQUENCE IS APPROPRIATE HERE.
08:47AM 15 AGAIN, THE FACT THAT THE CONTENT OF THE ARTICLE WAS SHARED WITH
08:47AM 16 INVESTORS IS RELEVANT IN AND OF ITSELF.

08:47AM 17 THE GOVERNMENT WOULDN'T OPPOSE AN INSTRUCTION FROM THE
08:47AM 18 COURT THAT THE ARTICLE IS NOT BEING OFFERED FOR THE TRUTH THAT
08:47AM 19 MS. HOLMES MADE THE STATEMENTS IN THE ARTICLE. IT REALLY IS
08:47AM 20 THE SUBSEQUENT USE OF THE ARTICLE THAT FORMS THE BASIS FOR WHY
08:48AM 21 IT'S IMPORTANT HERE.

08:48AM 22 THE COURT: WOULD THEN A COVER PAGE OF THE ARTICLE
08:48AM 23 SUFFICE, THE COVER PAGE WITHOUT THE MATERIAL IF IT'S NOT
08:48AM 24 RELEVANT OR IT'S NOT OFFERED FOR THE TRUTH, THEN -- AND THE
08:48AM 25 RELEVANCE IS THERE WAS A HOLMES INTERVIEW WITH PARLOFF, AN

08:48AM 1 ARTICLE THAT WAS FAVORABLE TO THE COMPANY, AND IT WAS PART OF
08:48AM 2 THE MATERIAL, SOLICITATION MATERIAL SENT OUT, ISN'T THAT
08:48AM 3 ENOUGH?

08:48AM 4 MR. BOSTIC: NO, YOUR HONOR, FOR THE SAME REASON
08:48AM 5 THAT WE COULDN'T RELY SIMPLY ON THE COVER PAGES TO THE SLIDE
08:48AM 6 PRESENTATIONS THAT WENT TO THE INVESTORS.

08:48AM 7 THE CONTENT OF THE FALSE STATEMENTS IS CRITICAL. THE JURY
08:48AM 8 NEEDS TO SEE WHAT FALSE AND MISLEADING INFORMATION POTENTIAL
08:48AM 9 INVESTORS WERE RECEIVING FROM THE COMPANY. AND THAT'S ALL
08:48AM 10 WE'RE ASKING TO DO HERE, TO SHOW THAT THIS ARTICLE EXISTED,
08:48AM 11 THAT IT WAS SENT BY DEFENDANT'S COMPANY TO CURRENT INVESTORS,
08:49AM 12 AND THAT IT CONTAINED FALSE STATEMENTS, STATEMENTS THAT THIS
08:49AM 13 DEFENDANT WOULD HAVE KNOWN TO BE FALSE.

08:49AM 14 THE FACT THAT --

08:49AM 15 THE COURT: HOW DO WE DO THAT WHILE WE TELL THE JURY
08:49AM 16 "BUT IT'S NOT OFFERED FOR THE TRUTH OF THE FALSE STATEMENTS OR
08:49AM 17 THE TRUTH OF THE POSITION THAT THE STATEMENTS ARE FALSE"?

08:49AM 18 MR. BOSTIC: SO I THINK MS. WALSH'S OBJECTION IS TO
08:49AM 19 THE JURY VIEWING THE ARTICLE AND RELYING ON IT TO BELIEVE THAT
08:49AM 20 MS. HOLMES SAID THE THINGS IN THE ARTICLE.

08:49AM 21 IT'S NOT IMPORTANT THAT THE JURY MAKE ANY CONCLUSIONS
08:49AM 22 ABOUT THAT, THOUGH. WE WON'T ASK THEM TO CONCLUDE FROM THE
08:49AM 23 ARTICLE THAT MR. PARLOFF CORRECTLY TOOK IT DOWN AND REPRESENTED
08:49AM 24 WHAT MS. HOLMES SAID.

08:49AM 25 SO THAT'S ABOUT WHY THE ARTICLE SAYS WHAT IT SAYS. THAT'S

08:49AM 1 BESIDE THE POINT HERE.

08:49AM 2 THE COURT: OKAY.

08:49AM 3 MR. BOSTIC: THE MORE IMPORTANT POINT IS WHAT THE
08:49AM 4 ARTICLE SAYS AND THE FACT THAT THE COMPANY SENT THAT
08:49AM 5 INFORMATION TO INVESTORS ASKING INVESTORS AT THAT POINT TO RELY
08:49AM 6 ON THE CONTENT OF THE ARTICLE FOR THEIR UNDERSTANDING ABOUT
08:50AM 7 WHAT THE COMPANY COULD DO.

08:50AM 8 IT'S AT THAT STAGE THAT THE CONTENT BECOMES RELEVANT AND
08:50AM 9 ADMISSIBLE BECAUSE BY SENDING THE ARTICLE TO INVESTORS, THE
08:50AM 10 COMPANY, DEFENDANT'S COMPANY, WAS PERPETUATING THOSE FALSE
08:50AM 11 UNDERSTANDINGS, SPREADING THOSE FALSE UNDERSTANDINGS. IT
08:50AM 12 DOESN'T MATTER HOW THAT CONTENT GOT INTO THE ARTICLE IN THE
08:50AM 13 FIRST PLACE.

08:50AM 14 MS. WALSH: PART OF THE PROBLEM, YOUR HONOR, IS THAT
08:50AM 15 THE GOVERNMENT HAS NOT PROVEN THAT THOSE ASSERTIONS ARE FALSE.
08:50AM 16 SO WE'RE GOING TO HAVE AN ARTICLE COME INTO EVIDENCE WITH A
08:50AM 17 BUNCH OF ASSERTIONS. THERE'S NO EVIDENCE THAT MS. HOLMES
08:50AM 18 ACTUALLY SAID THOSE THINGS TO MR. PARLOFF.

08:50AM 19 THE EVIDENCE HASN'T BEEN ESTABLISHED THAT THOSE ASSERTIONS
08:50AM 20 ARE FALSE, AND IT'S EXTREMELY PREJUDICIAL TO -- SO IT'S
08:50AM 21 HEARSAY, BUT IT'S ALSO EXTREMELY PREJUDICIAL TO MR. BALWANI.
08:50AM 22 HE HAD NOTHING TO DO WITH THIS INTERVIEW. HE WASN'T THERE. HE
08:50AM 23 DIDN'T ADVISE HER WHILE SHE WAS TALKING TO REPORTERS.

08:51AM 24 SO THERE IS -- YOUR FIRST QUESTION WAS IS THERE A
08:51AM 25 CONNECTION TO MR. BALWANI? AND IT HAS NOT BEEN CONNECTED TO

08:51AM 1 HIM.

08:51AM 2 MR. BOSTIC: SO, YOUR HONOR, JUST TO CORRECT A FEW
08:51AM 3 THINGS.

08:51AM 4 IT'S ABSOLUTELY NOT TRUE THAT THERE'S NO EVIDENCE IN THE
08:51AM 5 CASE TO SHOW THAT THE STATEMENTS IN THE ARTICLE ARE FALSE.

08:51AM 6 THE ARTICLE INCLUDES STATEMENTS LIKE, FOR EXAMPLE, QUOTE,
08:51AM 7 "IT'S NOT JUST THE BLOOD DRAWS THAT ARE TINY, IT'S ALSO THE
08:51AM 8 ANALYTICAL SYSTEMS THAT THERANOS USES TO PERFORM THE TESTS."

08:51AM 9 THIS JURY HAS ALREADY HEARD THAT THERANOS USED LARGE
08:51AM 10 DEVICES, THIRD PARTY DEVICES TO DO ITS TESTS.

08:51AM 11 THE ARTICLE SAYS, "THERANOS DOES NOT BUY ANY ANALYZERS
08:51AM 12 FROM THIRD PARTIES."

08:51AM 13 THE JURY HAS HEARD THAT THAT'S NOT TRUE, THAT THE COMPANY
08:51AM 14 DID BUY THIRD PARTY ANALYZERS.

08:51AM 15 THE ARTICLE ALSO SAYS THAT "THERANOS CURRENTLY OFFERS MORE
08:51AM 16 THAN 200 AND IS RAMPING UP TO OFFER MORE THAN 1,000 OF THE MOST
08:52AM 17 COMMONLY ORDERED BLOOD DIAGNOSTIC TESTS ALL WITHOUT THE NEED
08:52AM 18 FOR A SYRINGE."

08:52AM 19 WE KNOW FROM MULTIPLE WITNESSES THAT THERANOS RELIED ON
08:52AM 20 VEIN PUNCTURE FOR MANY OF THE TESTS THAT IT WAS OFFERING AND
08:52AM 21 THAT IT COULD NOT DO THIS MANY TESTS SIMPLY ON FINGERSTICK.

08:52AM 22 SO THE JURY KNOWS THAT THESE STATEMENTS ARE FALSE. THE
08:52AM 23 FACT THAT DEFENDANT'S COMPANY SENT THESE FALSE STATEMENTS TO
08:52AM 24 INVESTORS IS THE POINT.

08:52AM 25 IT DOESN'T MATTER HOW THE FALSE STATEMENTS CAME TO BE IN

08:52AM 1 THIS DOCUMENT FOR PURPOSES OF ESTABLISHING THAT POINT.

08:52AM 2 THE COURT: OKAY. WELL, THANK YOU FOR THAT.

08:52AM 3 I STILL HAVE A QUESTION ABOUT THE CONNECTION BETWEEN
08:52AM 4 MR. BALWANI AND YOU SUGGESTING THAT THAT'S TO COME, JUDGE.
08:52AM 5 WE'RE GOING TO LAY THAT FOUNDATION.

08:52AM 6 SO I SUPPOSE THE WAY I LOOK AT THIS NOW IS THAT I SUSTAIN
08:52AM 7 THE OBJECTION SUBJECT TO A FOUNDATION BEING LAID.

08:52AM 8 MR. BOSTIC: WHAT I'LL DO, YOUR HONOR, IS I'LL MOVE
08:52AM 9 1776 UNTIL LATER IN THE EXAMINATION.

08:53AM 10 THE COURT: SURE.

08:53AM 11 MR. BOSTIC: AND WE'LL SEE IF WE CAN OVERCOME THAT
08:53AM 12 OBJECTION.

08:53AM 13 THE COURT: SURE.

08:53AM 14 MR. BOSTIC: I JUST WANT TO MAKE SURE THAT WE'RE
08:53AM 15 CLEAR, WHILE WE HAVE A CHANCE TO ARGUE WITHOUT THE JURY
08:53AM 16 PRESENT, THAT THIS IS NOT TO COME IN FOR THE PURPOSE OF
08:53AM 17 ESTABLISHING THAT HOLMES SAID WHAT SHE SAID.

08:53AM 18 ALTHOUGH THE COURT KNOWS FROM EVIDENCE THAT THE COURT HAS
08:53AM 19 PREVIOUSLY SEEN THAT THAT EVIDENCE DOES EXIST, BUT WE ARE
08:53AM 20 NOT -- BUT WE HAVE NOT INTRODUCED IT YET IN THIS TRIAL.

08:53AM 21 SO I CAN MOVE 1776.

08:53AM 22 AND I THINK JUST TO ANSWER ONE POINT THAT THE DEFENSE
08:53AM 23 RAISED ON THE WEBSITE, THE GOVERNMENT DOES PLAN TO INTRODUCE A
08:53AM 24 COPY OF A FEBRUARY 2014 VERSION OF THE THERANOS PUBLIC WEBSITE.

08:53AM 25 THE WITNESS PREVIOUSLY DIDN'T REMEMBER EXACTLY WHAT WAS ON

08:53AM 1 THE WEBSITE. I BELIEVE THAT THIS DOCUMENT CAN REFRESH HIS
08:53AM 2 RECOLLECTION. I UNDERSTAND THAT HE WILL ALSO RECOGNIZE IT FOR
08:53AM 3 WHAT IT IS.

08:54AM 4 MS. WALSH SAID THAT SHE SENT THE GOVERNMENT COPIES OF THAT
08:54AM 5 WEBSITE. ACTUALLY, I BELIEVE WHAT SHE SENT WAS A PARTIAL
08:54AM 6 PORTION OF THAT WEBSITE FROM THE INTERNET ARCHIVES.

08:54AM 7 I THEN ASKED THE DEFENSE IF THEY WOULD BE WILLING TO
08:54AM 8 INTRODUCE THE ENTIRE VERSION OF THE WEBSITE FROM THAT SAME
08:54AM 9 SOURCE. I DON'T THINK I HEARD BACK, OR THE ANSWER WAS NO.

08:54AM 10 THE GOVERNMENT PLANS TO OFFER THE FULL VERSION OF THAT
08:54AM 11 FEBRUARY 2014 WEBSITE. THAT MIGHT BE SOMETHING THAT WE NEED TO
08:54AM 12 TALK ABOUT IN ADVANCE ALSO DEPENDING ON THE DEFENSE'S POSITION
08:54AM 13 ON THAT.

08:54AM 14 THE COURT: CAN YOU SPEAK TO THAT NOW, MS. WALSH?

08:54AM 15 MS. WALSH: I CAN, YOUR HONOR, YES.

08:54AM 16 RIGHT. SO WE SENT THE GOVERNMENT THE PAGES OF THE
08:54AM 17 WEBSITE, THE ACTUAL WEBSITE THAT RELATED TO THE TESTIMONY FROM
08:54AM 18 WEDNESDAY AND MR. EDLIN SAYING I DON'T REMEMBER WHETHER THIS
08:54AM 19 CORRECTION WAS MADE. SO WE SENT THOSE OVER.

08:54AM 20 THERE'S NO QUESTION, WE WANT THE JURY TO HEAR THAT MANY OF
08:54AM 21 THE CORRECTIONS WERE MADE TO THE WEBSITE. SO WE'RE ALL IN
08:54AM 22 FAVOR OF THAT.

08:55AM 23 IF MR. BOSTIC WANTS TO OFFER THE ACTUAL WEB PAGES THROUGH
08:55AM 24 THIS WITNESS ON DIRECT, THAT'S FINE. WE DON'T OBJECT.

08:55AM 25 THE COURT: OKAY.

08:55AM 1 MR. BOSTIC: UNDERSTOOD, YOUR HONOR.

08:55AM 2 THE COURT: OKAY. THANK YOU.

08:55AM 3 504.

08:55AM 4 MR. BOSTIC: AS TO 504, YOUR HONOR, THE GOVERNMENT
08:55AM 5 IS SEEKING TO ADMIT THIS TO -- FOR SIMILAR REASONS AS IT WAS
08:55AM 6 INTRODUCED AND ADMITTED IN THE HOLMES TRIAL.

08:55AM 7 FALSE STATEMENTS MADE TO THE MILITARY ARE NOT 404(B)
08:55AM 8 EVIDENCE. THEY WEREN'T ADMITTED UNDER 404(B) IN THE PREVIOUS
08:55AM 9 TRIAL. WE DON'T OFFER THEM AS THAT HERE.

08:55AM 10 INSTEAD, THEY'RE ADMISSIBLE BECAUSE IN THE DEFENDANT'S
08:55AM 11 SHARED SCHEME TO DEFRAUD INVESTORS, FALSE STATEMENTS WERE MADE
08:55AM 12 ABOUT THE NATURE AND EXTENT OF THERANOS'S CONTACTS WITH THE
08:55AM 13 MILITARY.

08:55AM 14 THE DEFENDANTS LED INVESTORS TO BELIEVE THAT THERANOS'S
08:55AM 15 HARDWARE WAS BEING USED BY THE MILITARY IN A MORE SUBSTANTIAL
08:55AM 16 WAY THAN IT ACTUALLY WAS.

08:55AM 17 MR. EDLIN IS GOING TO TESTIFY ABOUT THE LIMITED
08:56AM 18 ENGAGEMENTS WITH THE MILITARY AND THE FACT THAT THERANOS
08:56AM 19 DEVICES WERE, FOR EXAMPLE, NEVER USED FOR ACTUAL CLINICAL
08:56AM 20 TESTING OF SOLDIERS BY THE MILITARY.

08:56AM 21 MS. HOLMES'S FALSE STATEMENTS TO THE MILITARY ABOUT WHAT
08:56AM 22 THE DEVICES COULD DO ARE INEXTRICABLY INTERTWINED WITH THAT
08:56AM 23 EVIDENCE BECAUSE THEY SHOW THAT MS. HOLMES, AND BY EXTENSION
08:56AM 24 MR. BALWANI, WOULD HAVE BEEN AWARE THAT THE MILITARY WANTED A
08:56AM 25 DEVICE THAT COULD DO CERTAIN THINGS, AND THE FACT THAT

08:56AM 1 MS. HOLMES HAD TO DECEIVE THE MILITARY ABOUT THE ABILITY OF THE
08:56AM 2 THERANOS ANALYZER IN ORDER TO KEEP THEM INTERESTED, IN ORDER TO
08:56AM 3 HAVE ANY RELATIONSHIP WITH THE MILITARY AT ALL IS RELEVANT
08:56AM 4 BECAUSE THE AGREED-UPON FRAUD ON INVESTORS INCLUDED FALSE
08:56AM 5 STATEMENTS ABOUT THE EXTENT OF THAT RELATIONSHIP.

08:56AM 6 SO IT AIDED THE AGREED-UPON FRAUD TO HAVE THE MILITARY ON
08:57AM 7 THE HOOK, AS IT WERE, BECAUSE THEN THERE WAS SOME CONTACT, SOME
08:57AM 8 RELATIONSHIP THAT COULD LATER THEN BE EXAGGERATED BY THESE
08:57AM 9 DEFENDANTS IN THEIR CONVERSATIONS WITH INVESTORS WHO WERE
08:57AM 10 IMPRESSED BY THE MILITARY'S INTEREST AND THE MILITARY'S
08:57AM 11 REPORTED USE OF THE DEVICE.

08:57AM 12 SO THAT'S ONE REASON WHY THIS IS ADMISSIBLE EVEN AS TO
08:57AM 13 MR. BALWANI.

08:57AM 14 SEPARATELY, IT ALSO SHOWS THAT THIS RELATIONSHIP WITH THE
08:57AM 15 MILITARY WAS NEVER GOING TO GET OFF THE GROUND BECAUSE THE
08:57AM 16 MILITARY'S INTEREST WAS PREMISED ON ITS UNDERSTANDING OF WHAT
08:57AM 17 THE DEVICE COULD DO. THAT UNDERSTANDING WAS FALSE. IT WAS
08:57AM 18 BASED ON THESE FALSE REPRESENTATIONS.

08:57AM 19 SO IT'S FURTHER PROOF THAT THE MILITARY NEVER ACTUALLY
08:57AM 20 USED THE DEVICE AND WAS NEVER GOING TO BECAUSE THE DEVICE
08:57AM 21 PROMISE TO THE MILITARY NEVER ACTUALLY MATERIALIZED.

08:57AM 22 THE COURT: OKAY. MS. WALSH.

08:57AM 23 MS. WALSH: YES, YOUR HONOR.

08:58AM 24 THIS IS 404(B). IT'S ANOTHER ACT THAT WAS NOT NOTICED TO
08:58AM 25 THE DEFENSE AND THE OTHER ACT IS DECEIVING THE MILITARY ABOUT

08:58AM 1 THE CAPABILITIES OF THE THERANOS MACHINE.

08:58AM 2 WHAT IS CHARGED IN THE INDICTMENT IS DECEIVING PATIENTS
08:58AM 3 AND INVESTORS ABOUT THAT SAME SUBJECT.

08:58AM 4 THE TWO WAYS IN THE CIRCUIT THAT 404(B) CAN COME IN IS IF
08:58AM 5 THE ACTS ARE PART -- IF THEY CONSTITUTE A SINGLE CRIMINAL
08:58AM 6 TRANSACTION WITH THE CHARGED CONDUCT, WHICH CLEARLY IS NOT THE
08:58AM 7 CASE HERE. IT'S NOT ONE TRANSACTION.

08:58AM 8 AND THE REASON THAT MR. BOSTIC INVOKED IS, IT IS
08:58AM 9 INEXTRICABLY INTERTWINED BECAUSE IT'S NECESSARY FOR THE
08:58AM 10 GOVERNMENT TO OFFER THAT EVIDENCE TO TELL A COHERENT STORY. SO
08:58AM 11 THAT'S THE SECOND WAY THAT EVIDENCE CAN BE VIEWED AS
08:58AM 12 INEXTRICABLY INTERTWINED, AND, THEREFORE, NOT 404(B).

08:58AM 13 THE SECOND PRONG IS THE ONLY ONE THAT WOULD POSSIBLY
08:59AM 14 APPLY. AND WHAT MR. BOSTIC IS SAYING IS THAT -- IT'S A
08:59AM 15 NARRATIVE THAT HE WANTS TO ARGUE TO THE JURY, WHICH HE'S
08:59AM 16 ENTITLED TO DO, OF COURSE, BUT SHOWING THAT THE MILITARY WAS
08:59AM 17 ALLEGEDLY DECEIVED IS NOT NECESSARY TO SHOWING THAT INVESTORS
08:59AM 18 WERE ALLEGEDLY DECEIVED.

08:59AM 19 AND THE REASON, IS THAT MR. BOSTIC CAN ELICIT FROM
08:59AM 20 MR. EDLIN, AND OTHERS, THAT THEY -- THAT THERANOS WORKED WITH
08:59AM 21 THE MILITARY, BUT IT TURNED OUT THAT THE RELATIONSHIP EITHER
08:59AM 22 ENDED OR GOT PUT ON PAUSE AT THE TIME THERANOS WAS TALKING TO
08:59AM 23 INVESTORS, AND, THEREFORE, WHEN THEY WERE TALKING TO INVESTORS
08:59AM 24 AND MAKING REPRESENTATIONS ABOUT THE RELATIONSHIP, THOSE
08:59AM 25 REPRESENTATIONS WERE FALSE.

08:59AM 1 IT IS NOT NECESSARY TO SHOW THAT THERANOS DECEIVED THE
08:59AM 2 MILITARY IN ORDER TO PROVE THAT.

09:00AM 3 THE COURT: OKAY. WHAT -- AND I THINK I UNDERSTAND
09:00AM 4 YOUR ARGUMENT FROM YOUR PLEADINGS, BUT MY QUESTION IS, IS IT
09:00AM 5 404(B) OR IS IT PART OF THE SCHEME?

09:00AM 6 FROM MR. BOSTIC'S POSITION, THE GOVERNMENT'S POSITION, IS
09:00AM 7 THAT PART OF THE SCHEME WAS TO ENTICE INVESTORS OR GET
09:00AM 8 INVESTORS TO BUY INTO THE COMPANY AND TO ENHANCE THAT
09:00AM 9 PRESENTATION, HAVING THE MILITARY ON BOARD OR HAVING THE
09:00AM 10 MILITARY AS A CLIENT, A SUBSCRIBER, WHATEVER, GIVES SOME TYPE
09:00AM 11 OF MILITARY GOVERNMENTAL RATIFICATION, WHICH WOULD ENHANCE THE
09:00AM 12 REPUTATION, WHICH WOULD THEN PERHAPS INCREASE INVESTOR
09:00AM 13 INTEREST, AND, THEREFORE, PART OF THIS SCHEME TO DEFRAUD.

09:01AM 14 THAT'S THE ARGUMENT I HEAR THEM SAYING. IT IS NOT OTHER
09:01AM 15 EVIDENCE, IT IS ACTUALLY INTERNAL EVIDENCE OF THE SCHEME
09:01AM 16 ITSELF. SO IT IS NOT A SEPARATE OFFENSE LIKE IN THE
09:01AM 17 VIZCARRA-MARTINEZ CASE, SIMPLE POSSESSION OF A CONTROLLED
09:01AM 18 SUBSTANCE WAS NOT PERMITTED TO BE INTRODUCED AGAINST THAT
09:01AM 19 GENTLEMAN FOR CHARGES OF A CONSPIRACY TO DISTRIBUTE, I THINK IT
09:01AM 20 WAS, BECAUSE IT HAD NOTHING TO DO. IT WAS SEPARATE, IT WAS A
09:01AM 21 SEPARATE OFFENSE.

09:01AM 22 BUT HERE WHAT -- AND THE WAY I LOOK AT IT IS THAT IT JUST
09:01AM 23 SEEMS THAT THAT -- GETTING THE MILITARY INVOLVED ENHANCED THE
09:01AM 24 SALE, THE PITCH, AND THAT WAS PART OF THE SCHEME.

09:01AM 25 ISN'T THAT THE WAY THAT IT COULD BE LOOKED AT?

09:01AM 1 MS. WALSH: IT COULD BE LOOKED AT THAT WAY,
09:01AM 2 YOUR HONOR, BUT I DON'T THINK THAT'S THE STANDARD.
09:01AM 3 THIS IS UNCHARGED CONDUCT.
09:01AM 4 DECEIVING THE MILITARY IS A CRIME, AND MR. BOSTIC IS GOING
09:02AM 5 TO ELICIT THAT. AND IT'S NOT CHARGED IN THE INDICTMENT.
09:02AM 6 SO IT IS, IT IS UNCHARGED MISCONDUCT.
09:02AM 7 AND THE ONLY WAY UNCHARGED MISCONDUCT COMES IN IS IF IT IS
09:02AM 8 INEXTRICABLY INTERTWINED, AND THERE ARE TWO WAYS THAT THE
09:02AM 9 GOVERNMENT CAN MEET THAT TEST. ONE IS IF IT'S A PART OF A
09:02AM 10 SINGLE CRIMINAL TRANSACTION, WHICH IT IS NOT; AND, TWO, IS IF
09:02AM 11 IT IS NECESSARY TO TELL A COHERENT STORY, WHICH IT IS NOT. IT
09:02AM 12 IS NOT NECESSARY FOR THE GOVERNMENT TO PROVE FRAUD ON THE
09:02AM 13 MILITARY TO PROVE FRAUD ON THE INVESTORS.
09:02AM 14 THE COURT: MR. BOSTIC.
09:02AM 15 MR. BOSTIC: NOT MUCH TO ADD, YOUR HONOR.
09:02AM 16 I THINK THAT THE KEY IS THE REASON FOR WHICH THIS EVIDENCE
09:02AM 17 IS BEING OFFERED, AND IT'S NOT BEING OFFERED FOR 404 PURPOSES,
09:02AM 18 EITHER 404 (A) OR 404 (B) .
09:02AM 19 THESE WERE ACTIONS TAKEN IN FURTHERANCE OF THE SCHEME TO
09:03AM 20 DEFRAUD INVESTORS.
09:03AM 21 THE FACT THAT THEY MIGHT ALSO BE MORALLY WRONG OR LEGALLY
09:03AM 22 WRONG, I'M NOT SURE THAT'S ESTABLISHED, BUT THE FACT THAT THEY
09:03AM 23 MIGHT BE OTHER WRONGS, DOESN'T MEAN THAT THEY CAN'T BE
09:03AM 24 ADMISSIBLE TO SHOW HOW THEY WERE DONE IN FURTHERANCE OF THE
09:03AM 25 CHARGED OFFENSE, AND THAT IS WHAT IS HAPPENING HERE. I THINK

09:03AM 1 THAT IS CONSISTENT WITH THE DEFINITION OF WHAT IT MEANS TO BE
09:03AM 2 INEXTRICABLY INTERTWINED, AND THAT IS THE BASIS ON WHICH THEY
09:03AM 3 WERE ADMITTED IN THE PREVIOUS TRIAL OVER A SIMILAR OBJECTION,
09:03AM 4 BY THE WAY.

09:03AM 5 THE COURT: MS. WALSH.

09:03AM 6 MS. WALSH: YEAH. THE ONLY OTHER POINT THAT I
09:03AM 7 DIDN'T RAISE IS THAT OF COURSE THE DANGER IS THE JURY WILL
09:03AM 8 CONCLUDE, WELL, THEY'RE LYING TO THE MILITARY, THEY'RE LYING TO
09:03AM 9 INVESTORS AND LINKING THE TWO TOGETHER.

09:03AM 10 AND I THINK WE LAY OUT IN OUR BRIEF HOW SIMILAR THE
09:03AM 11 REPRESENTATIONS ARE THAT ARE MADE TO THE MILITARY VERSUS THE
09:04AM 12 INVESTORS, AND SO THE REAL DANGER IS THAT WHEN THE JURORS HEAR,
09:04AM 13 OH, THEY MADE ALL OF THESE MISREPRESENTATIONS TO THE MILITARY,
09:04AM 14 THEY WILL THEN LEAP TO THE CONCLUSION THAT THEY LIED TO THE
09:04AM 15 INVESTORS, TOO. AND THAT'S NOT APPROPRIATE.

09:04AM 16 THE COURT: OKAY. ALL RIGHT. THANK YOU. AND THANK
09:04AM 17 YOU FOR THE PLEADINGS, INCLUDING THE CHART IN THE PLEADINGS
09:04AM 18 THAT DIRECTED US ALL TO THE DOCUMENT, OR THE TRANSCRIPT RATHER,
09:04AM 19 IN THE HOLMES TRIAL WHICH WAS HELPFUL TO REVIEW THAT AND LOOK
09:04AM 20 AT THAT.

09:04AM 21 I AM GOING TO OVERRULE THE OBJECTION AND DENY THE MOTION
09:04AM 22 AS TO THIS 504.

09:04AM 23 I DO THINK THAT THE EVIDENCE SHOWS THAT THAT COLLOQUY,
09:04AM 24 THAT CONVERSATION IS INEXTRICABLY INTERTWINED WITH THE OVERALL
09:04AM 25 SCHEME, AND FOR THE REASONS THAT I STATED EARLIER, IT DOES

09:04AM 1 APPEAR THAT THAT SCHEME WAS TO ESTABLISH A RELATIONSHIP WITH
09:04AM 2 THE MILITARY SUCH THAT THAT RELATIONSHIP COULD BE USED TO THEN
09:05AM 3 ENHANCE INVESTORS' INTERESTS.

09:05AM 4 IT WOULD SERVE THE PURPOSE OF CREATING GREATER INTEREST BY
09:05AM 5 THE INVESTORS BECAUSE OF THE IMPRIMATUR OF THE UNITED STATES
09:05AM 6 MILITARY BEING ALSO A CUSTOMER GIVING THE COMPANY THE
09:05AM 7 IMPRIMATUR OF THE MILITARY, AND THAT WOULD ENHANCE THE
09:05AM 8 INVESTMENTS.

09:05AM 9 SO I DO FIND IT IS NOT 404(B). I DON'T SEE IT AS 404 AT
09:05AM 10 ALL, BUT RATHER I DO FIND IT IS INEXTRICABLY INTERTWINED WITH
09:05AM 11 THE OVERALL SCHEME AND NOT SEPARATE, NOT SEPARATE OFFENSES AT
09:05AM 12 ALL. SO I AM GOING TO OVERRULE THE OBJECTION. I DO FIND THAT
09:05AM 13 UNDER 403 ALSO THE PROBATIVE VALUE OF THIS OUTWEIGHS ANY UNFAIR
09:05AM 14 PREJUDICE AND CERTAINLY THE PARTIES CAN EXPLAIN THAT, AND
09:05AM 15 WHETHER THE GOVERNMENT ARGUES THAT THEY LIED TO THE MILITARY
09:06AM 16 AND THEY LIED, I'M NOT CERTAIN THAT'S THE GOVERNMENT'S
09:06AM 17 ARGUMENT, BUT WE'LL SEE, AND WE'LL SEE IF THAT WILL BE
09:06AM 18 PERMITTED OR NOT. I JUST DON'T KNOW WHAT THAT IS GOING TO BE.

09:06AM 19 BUT I DO THINK THAT UNDER 403, THE PROBATIVE VALUE OF THIS
09:06AM 20 OUTWEIGHS, OUTWEIGHS ANY UNFAIR PREJUDICE.

09:06AM 21 SO I'M GOING TO RESPECTFULLY DECLINE YOUR INVITATION TO
09:06AM 22 STRIKE OR NOT ALLOW THE GOVERNMENT TO INTRODUCE 504.

09:06AM 23 AND YOU'RE NOT -- I THINK YOU'VE TOLD US ALREADY, THE
09:06AM 24 GOVERNMENT DOES NOT INTEND TO PROCEED ON ANY OF THE OTHER
09:06AM 25 EXHIBITS THAT WERE REFERENCED IN MS. WALSH'S MOTION.

09:06AM 1 MR. BOSTIC: CORRECT, YOUR HONOR.

09:06AM 2 THE COURT: OKAY. I THINK WE FINISHED THE
09:06AM 3 CONVERSATION THIS MORNING.

09:06AM 4 MS. WALSH: I THINK THERE ARE A COUPLE OF OTHER
09:06AM 5 ITEMS, YOUR HONOR, THAT WE WANTED TO RAISE.

09:06AM 6 THE COURT: SURE.

09:06AM 7 MS. WALSH: MR. BOSTIC IS OFFERING ADDITIONAL TEXTS
09:06AM 8 FROM EXHIBIT 5387, AND HE PROVIDED US WITH THE EXCERPTS THAT
09:07AM 9 HE'S GOING TO OFFER, AND WE DO HAVE SOME HEARSAY OBJECTIONS.

09:07AM 10 I DON'T KNOW IF THE COURT WANTS TO HEAR THOSE NOW OR IN
09:07AM 11 THE MOMENT.

09:07AM 12 BUT THE ONE -- A COUPLE IN PARTICULAR THAT I THINK ARE
09:07AM 13 WORTH TALKING ABOUT ARE TEXTS BETWEEN MS. HOLMES AND
09:07AM 14 MR. BALWANI ABOUT SAFEWAY, ABOUT MS. HOLMES'S COMMUNICATIONS
09:07AM 15 WITH STEVE BURD, I ASSUME AT SAFEWAY, OR OTHERS AT SAFEWAY.

09:07AM 16 AND OUR OBJECTION ON THOSE IS THE HEARSAY, THAT THIS IS
09:07AM 17 HEARSAY. THESE ARE STATEMENTS BY MS. HOLMES TO MR. BALWANI
09:07AM 18 ABOUT FACTUAL ASSERTIONS REGARDING SAFEWAY.

09:07AM 19 SO WE WOULD OBJECT ON HEARSAY GROUNDS ON THAT ONE.

09:07AM 20 THE COURT: OKAY.

09:07AM 21 MR. BOSTIC: YOUR HONOR, AS TO THAT ONE, I DON'T
09:07AM 22 MEAN TO INTERRUPT, BUT MAYBE WE SHOULD TAKE THEM ONE BY ONE.

09:07AM 23 MS. WALSH: SURE.

09:07AM 24 MR. BOSTIC: ON THAT ONE THE GOVERNMENT IS NOT
09:07AM 25 SEEKING TO ADMIT MS. HOLMES'S STATEMENTS FOR THEIR TRUTH RATHER

09:08AM 1 IT'S TO SHOW WHAT THE DEFENDANTS WERE TALKING ABOUT AT VARIOUS
09:08AM 2 TIMES, AND OBVIOUSLY MR. BALWANI'S STATEMENTS COME IN AS AN
09:08AM 3 EXCEPTION TO THE HEARSAY RULES. MS. HOLMES'S STATEMENTS ARE
09:08AM 4 NECESSARY SIMPLY TO PROVIDE THE OTHER SIDE OF THAT
09:08AM 5 CONVERSATION.

09:08AM 6 SO WE WOULDN'T BE OPPOSED TO AN INSTRUCTION FROM THE COURT
09:08AM 7 THAT HER STATEMENTS ON THAT TOPIC ARE NOT COMING IN FOR THE
09:08AM 8 TRUTH.

09:08AM 9 THE COURT: OKAY.

09:08AM 10 MS. WALSH: YOUR HONOR, THERE ARE LOTS AND LOTS OF
09:08AM 11 TEXTS THAT THE GOVERNMENT CAN OFFER TO SHOW WHAT MR. BALWANI
09:08AM 12 AND MS. HOLMES WERE TALKING ABOUT AT VARIOUS TIMES.

09:08AM 13 I DON'T -- I THINK THERE'S A SERIOUS HEARSAY PROBLEM WITH
09:08AM 14 THE SAFEWAY ASSERTIONS THAT MS. HOLMES IS MAKING.

09:08AM 15 THAT'S OUR POSITION.

09:08AM 16 THE COURT: OKAY. WELL, I DON'T HAVE THAT IN FRONT
09:08AM 17 OF ME. THANKS FOR THE HEADS UP, THOUGH.

09:08AM 18 MS. WALSH: I HAVE A COPY FOR THE COURT IF THAT --

09:08AM 19 THE COURT: OH, THANK YOU.

09:08AM 20 MS. WALSH: (HANDING.)

09:08AM 21 AND THAT SET OF TEXTS IS ON PAGE 1.

09:09AM 22 THE COURT: ON THE FIRST PAGE?

09:09AM 23 MS. WALSH: YES, THE FIRST PAGE.

09:09AM 24 (PAUSE IN PROCEEDINGS.)

09:09AM 25 THE COURT: IS THIS THE -- I'M JUST GOING TO POINT

09:09AM 1 OUT, IT LOOKS LIKE IT'S EAH 6-22-2011 AT 12:51 P.M. "STEVE
09:09AM 2 WANTS WARRANTS FOR HITTING," THOSE TYPES OF COMMENTS?

09:09AM 3 MS. WALSH: EXACTLY, YOUR HONOR.

09:09AM 4 MR. BOSTIC: YES, YOUR HONOR.

09:09AM 5 THE COURT: OKAY. SO IT LOOKS LIKE THEY, FROM
09:09AM 6 MR. BOSTIC'S COMMENT, THEY ADD CONTEXT TO THE CONVERSATION
09:09AM 7 PERHAPS, AND I WOULD INSTRUCT -- IF THESE WERE OFFERED, I WOULD
09:09AM 8 INSTRUCT THE JURY THAT MS. HOLMES'S TEXTS ARE NOT OFFERED FOR
09:10AM 9 THE TRUTH OF THE MATTER ASSERTED IN HER TEXTS BUT SOLELY TO
09:10AM 10 PROVIDE CONTEXT FOR THE COMMUNICATION FROM MR. BALWANI, WHICH
09:10AM 11 ARE ADMISSIBLE.

09:10AM 12 YOU HAD SOME OTHERS?

09:10AM 13 MS. WALSH: I DID.

09:10AM 14 THE NEXT ONE IS ON PAGE 10 OF THE EXHIBIT. STARTING
09:10AM 15 TOWARD THE BOTTOM ON 6-23-2011 AT 12:02 A.M., AND IT CONTINUES
09:10AM 16 ON TO THE NEXT PAGE UNTIL 12:07 A.M.

09:10AM 17 MR. BOSTIC: THAT MIGHT BE PAGE 4 OF THE EXHIBIT,
09:10AM 18 BUT PAGE 10 OF THE 449?

09:10AM 19 MS. WALSH: YEAH. I GUESS THE PAGE NUMBERING IS
09:10AM 20 CONFUSING. YES, PAGE 10 OF 449, CORRECT.

09:10AM 21 THE COURT: AND IT LOOKS LIKE THERE'S SOME
09:11AM 22 HIGHLIGHTED PORTIONS IN THE MARGINS.

09:11AM 23 IS THAT -- DOES THAT IDENTIFY THE OBJECTED MATERIAL?

09:11AM 24 MS. WALSH: IT DOES. I BELIEVE THAT'S MR. BOSTIC'S,
09:11AM 25 OR THE GOVERNMENT, SHOWING WHICH PORTIONS HE WAS GOING TO

09:11AM 1 OFFER.

09:11AM 2 THE COURT: RIGHT. AND YOU OBJECT TO ALL OF THAT?

09:11AM 3 MS. WALSH: SO FROM 6-23-2011 AT 12:02 A.M. CARRYING
09:11AM 4 OVER ON TO PAGE 11, 6-23-2011 AT 12:07 A.M.

09:11AM 5 AND THE GIST OF THIS, YOUR HONOR, IS THAT THERE --
09:11AM 6 MR. BALWANI AND MS. HOLMES ARE TALKING ABOUT BEING ON A PLANE
09:11AM 7 AND ORDERING FOOD AND COMPLAINING ABOUT THE FLIGHT AND CHAIRS
09:11AM 8 AND TALKING ABOUT FIRST CLASS VERSUS NOT AND UPGRADES.

09:11AM 9 I JUST THINK THIS GOES BEYOND THE COURT'S RULING IN THE
09:12AM 10 MIL OPINION THAT SOME EVIDENCE CAN BE OFFERED TO SHOW TYPICAL
09:12AM 11 PERKS TO SILICON VALLEY CEO'S. UNDERSTOOD -- WE UNDERSTAND THE
09:12AM 12 COURT'S RULING. I THINK THIS GOES BEYOND IT.

09:12AM 13 THE COURT: MR. BOSTIC, THE OBJECTION IS THAT THIS
09:12AM 14 IS A YELP REVIEW OF THE AIRLINE.

09:12AM 15 MR. BOSTIC: SO, YOUR HONOR, THE PURPOSE OF THIS
09:12AM 16 EXHIBIT IN GENERAL IS TO PROVIDE A FEW SNAPSHOTS THROUGH TIME
09:12AM 17 OF THE KINDS OF CONVERSATIONS THAT THE DEFENDANTS HAVE IN
09:12AM 18 CONNECTION WITH THEIR BUSINESS AND PERSONAL RELATIONSHIP.

09:12AM 19 THIS WILL BE IN CONNECTION WITH TESTIMONY FROM MR. EDLIN
09:12AM 20 ABOUT WHAT HE OBSERVED OF THEIR PERSONAL AND WORKING
09:12AM 21 RELATIONSHIP.

09:12AM 22 SO THE POINT OF THIS IS NOT TO EMPHASIZE THAT MR. BALWANI
09:12AM 23 WAS FLYING FIRST CLASS. THE POINT IS TO SHOW THAT MR. BALWANI
09:12AM 24 AND MS. HOLMES COMMUNICATED ABOUT BUSINESS MATTERS -- EXCUSE
09:12AM 25 ME, ABOUT BUSINESS MATTERS, ABOUT PERSONAL MATTERS, EVEN

09:13AM 1 MUNDANE THINGS, WHAT WAS HAPPENING TO THEM AT VARIOUS MOMENTS
09:13AM 2 IN TIME.

09:13AM 3 THE FACT THAT IT MENTIONS MR. BALWANI BEING IN FIRST CLASS
09:13AM 4 DOES NOT RENDER IT INADMISSIBLE UNDER THE COURT'S ORDER.

09:13AM 5 I BELIEVE THERE HAS ALREADY BEEN TESTIMONY IN THIS CASE
09:13AM 6 ABOUT THE COMPANY'S USE OF PRIVATE JETS. IF THAT'S ADMISSIBLE,
09:13AM 7 I'M NOT SURE WHY FIRST CLASS TRAVEL SHOULD BE INADMISSIBLE.
09:13AM 8 FIRST CLASS TRAVEL IS MORE MODEST OR COST EFFECTIVE THAN
09:13AM 9 PRIVATE JET TRAVEL I UNDERSTAND.

09:13AM 10 MOREOVER, THERE'S NOTHING IN THIS EXCHANGE THAT GOES
09:13AM 11 BEYOND THE LEVEL OF -- THAT DESCRIBES PERKS BEYOND WHAT A
09:13AM 12 TYPICAL C SUITE EXECUTIVE AT A COMPANY LIKE THIS WOULD ENJOY.

09:13AM 13 SO THERE'S NOTHING LIKE, FOR EXAMPLE, DISCUSSIONS OF WHAT
09:13AM 14 MS. HOLMES SPENT HER MONEY ON, THE LUXURY GOODS, PERSONAL
09:14AM 15 PURCHASES. THE THINGS THAT THE COURT HAS BEEN CONCERNED ABOUT
09:14AM 16 IN THE PAST WHEN IT CAME TO THIS KIND OF TESTIMONY JUST DON'T
09:14AM 17 SHOW UP HERE.

09:14AM 18 THE COURT: OKAY. MS. WALSH.

09:14AM 19 MS. WALSH: SO, YOUR HONOR, YEAH, I DON'T SEE WHY
09:14AM 20 THIS PARTICULAR TEXT CHAIN IS NECESSARY TO PROVE THAT
09:14AM 21 MR. BALWANI AND MS. HOLMES MAY HAVE FLOWN FIRST CLASS
09:14AM 22 SOMETIMES.

09:14AM 23 BY THE WAY, MR. BALWANI PAID FOR HIS OWN TRAVEL MUCH OF
09:14AM 24 THE TIME, SO I'M NOT SURE THIS IS A PERK, A COMPANY PERK. AND
09:14AM 25 IT'S JUST ON THE BOTTOM OF PAGE 10 MR. BALWANI SAYS, "I'M

09:14AM 1 HUNGRY. THESE GUYS RAN OUT OF MEALS IN FIRST CLASS. CLOWNS I
09:14AM 2 SWEAR."

09:14AM 3 I DON'T SEE HOW IT ADDS TO THE POINT THAT MR. BOSTIC SAYS
09:14AM 4 HE WANTS TO MAKE.

09:14AM 5 THE EFFECT IS THAT THEY'RE COMPLAINING ABOUT THE SERVICE
09:14AM 6 THAT THEY'RE GETTING ON THE AIRLINE, AND I THINK IT'S
09:15AM 7 PREJUDICIAL, IT'S NOT PARTICULARLY PROBATIVE OF THE FACT THAT
09:15AM 8 THEY'RE GETTING PERKS FROM THE COMPANY, AND I THINK IT SHOULD
09:15AM 9 BE EXCLUDED.

09:15AM 10 THE COURT: OKAY. MR. BOSTIC, WHAT ABOUT THE
09:15AM 11 "CLOWNS"? ANY OBJECTION IF WE STRIKE THE "CLOWNS"?

09:15AM 12 MR. BOSTIC: NO OBJECTION TO REDACTING THAT.

09:15AM 13 THE COURT: I THINK WE CAN REDACT THAT.

09:15AM 14 I TAKE YOUR POINT, MS. WALSH, BUT I DO THINK THAT THIS IS
09:15AM 15 ADMISSIBLE TO SHOW A RELATIONSHIP, AT LEAST A BUSINESS
09:15AM 16 RELATIONSHIP BETWEEN MS. HOLMES AND MR. BALWANI, THEY'RE
09:15AM 17 CONFERRING ABOUT, IT APPEARS TO BE, PLANS REGARDING MEETINGS,
09:15AM 18 AND SO I'M GOING TO ALLOW IT OVER YOUR OBJECTION.

09:15AM 19 BUT I WILL REDACT THE "CLOWNS" PART OF THAT LAST LINE.

09:15AM 20 MS. WALSH: THANK YOU, YOUR HONOR.

09:16AM 21 THE COURT: YOU'RE WELCOME.

09:16AM 22 WAS THERE ANOTHER?

09:16AM 23 MS. WALSH: I'M JUST TAKING A MOMENT TO CHECK.

09:16AM 24 THE COURT: I'D ALSO LIKE TO REVIEW AGAIN JUST OUR
09:16AM 25 SCHEDULE QUICKLY BEFORE WE BREAK TODAY SO I CAN INFORM THE JURY

09:16AM 1 OF THAT, TOO.

09:16AM 2 MS. WALSH: YEAH. THAT'S ALL FOR THE TEXTS.

09:16AM 3 THE COURT: OKAY. THANK YOU.

09:16AM 4 SO WE'RE GOING UNTIL 4:00 TODAY.

09:16AM 5 FRIDAY WE'LL BREAK AT NOON, AND I'LL TELL THE JURY THAT.

09:16AM 6 WE'LL BREAK AT NOON.

09:16AM 7 WE'LL BE IN SESSION THE 19TH, THE 20TH, AND THE 22ND.

09:16AM 8 DO YOU HAVE THE -- I'M SORRY, MS. ROBINSON. DO YOU HAVE

09:17AM 9 THE TIMES THAT WE END THEN? I DIDN'T BRING THAT SHEET WITH ME

09:17AM 10 THAT WE'RE ENDING ON THOSE DAYS, THE 19TH, THE 20TH?

09:17AM 11 I KNOW WE HAD THOUGHT ABOUT HAVING A SESSION ON THE

09:17AM 12 MORNING OF THE 18TH. THAT'S NOT GOING TO WORK APPARENTLY.

09:17AM 13 THE CLERK: YOU'RE RIGHT, THAT'S NOT GOING TO WORK.

09:17AM 14 THE 19TH WE CAN END AT 4:00.

09:17AM 15 THE 20TH WE CAN END AT 4:00.

09:17AM 16 THE 22ND WE'LL END AT 4:00. SO WE'LL HAVE FULL DAYS.

09:17AM 17 THE COURT: AND THERE ARE SOME BREAKS IN THOSE DAYS,

09:17AM 18 I BELIEVE.

09:17AM 19 THE CLERK: YOU'RE RIGHT. ONE MOMENT.

09:17AM 20 THE COURT: I'M SORRY, I DIDN'T BRING THE SHEET.

09:17AM 21 THE CLERK: THAT'S OKAY.

09:17AM 22 (PAUSE IN PROCEEDINGS.)

09:18AM 23 THE COURT: I CAN GET THE SHEET. IT'S JUST ON MY

09:18AM 24 DESK, AND I DIDN'T BRING IT.

09:18AM 25 THE NEXT WEEK WE'RE IN TRIAL ON THE 26TH AND 27TH, I

09:18AM 1 BELIEVE.

09:18AM 2 MR. SCHENK?

09:18AM 3 MR. SCHENK: YES, YOUR HONOR.

09:18AM 4 I WAS LOOKING YESTERDAY, AND WE DISCUSSED ENDING AT 2:45

09:18AM 5 ON BOTH THE 19TH AND THE 22ND.

09:18AM 6 WE EITHER HAD THAT DISCUSSION ON MONDAY OR TUESDAY OF THIS
09:18AM 7 WEEK.

09:18AM 8 THE COURT: THAT WAS SUCH A LONG TIME AGO.

09:18AM 9 MR. SCHENK: YES.

09:18AM 10 THE COURT: I HAVE THAT SHEET IN MY OFFICE I THINK.

09:18AM 11 THE CLERK: I HAVE IT HERE.

09:18AM 12 THE COURT: OH, YOU DO.

09:18AM 13 THE CLERK: SO ON THE 19TH WE END AT 3:00 O'CLOCK
09:18AM 14 AND ON THE 22ND WE END AT 3:00 O'CLOCK.

09:18AM 15 BUT ON THE 20TH, WE CAN END AT 4:00. WE'LL HAVE A FULL
09:18AM 16 DAY. OKAY.

09:18AM 17 THE COURT: OKAY. AND THEN THE 29TH WE ARE IN
09:18AM 18 SESSION ALL DAY, I BELIEVE.

09:19AM 19 THE CLERK: THAT'S CORRECT.

09:19AM 20 THE COURT: AND JUST TO CONFIRM, MAY 3RD, WE WILL BE
09:19AM 21 AVAILABLE ALL DAY AND AS WELL AS THE 4TH ALL DAY.

09:19AM 22 IS THAT RIGHT?

09:19AM 23 THE CLERK: YES. YES.

09:19AM 24 MR. SCHENK: YES.

09:19AM 25 THE COURT: OKAY. AND WE ARE -- FOR MAY WE'RE

09:19AM 1 TRYING TO SEE IF WE CAN HAVE AN AFTERNOON SESSION ON THE 23RD
09:19AM 2 AND PERHAPS AN AFTERNOON SESSION ON THE 26TH.

09:19AM 3 THE 27TH THERE WILL BE A ONE HOUR BREAK, 12:45 TO 1:45 IT
09:19AM 4 LOOKS LIKE. THAT'S NEW INFORMATION FOR YOU I THINK. SO THAT'S
09:20AM 5 THE UPDATE.

09:20AM 6 AND TODAY I'LL ASK AND INQUIRE OF OUR JURORS WHETHER OR
09:20AM 7 NOT AN 8:30 START IS SOMETHING THAT THEY CAN ACCOMMODATE.

09:20AM 8 OKAY.

09:20AM 9 MS. WALSH: YOUR HONOR, BEFORE WE BREAK, AND THERE
09:20AM 10 ARE TWO MORE ITEMS, AND I DON'T KNOW IF MR. BOSTIC WANTS TO
09:20AM 11 RETURN TO THE PODIUM.

09:20AM 12 THIS IS JUST IN WAY OF A HEADS UP TO PUT THE COURT ON
09:20AM 13 NOTICE. ONE OF THE EXHIBITS THAT I THINK THE GOVERNMENT WILL
09:20AM 14 ELICIT THROUGH MR. EDLIN IS 4858, AND THAT IS AN INVESTOR
09:20AM 15 PACKET THAT WAS SENT TO RDV CORPORATION, THIS IS THE DEVOS
09:20AM 16 FAMILY COMPANY, AND IN THAT PACKET INCLUDES THE PFIZER REPORT.
09:20AM 17 AND WE'VE BRIEFED THIS ISSUE, YOUR HONOR, AND YOU RULED LAST
09:21AM 18 WEEK REGARDING SCHERING-PLOUGH. THAT REPORT WAS ALLOWED TO
09:21AM 19 COME IN.

09:21AM 20 AND, OF COURSE, THE PFIZER REPORT IS VERY DIFFERENT FROM
09:21AM 21 SCHERING-PLOUGH BECAUSE THERE IS NO EVIDENCE THAT MR. BALWANI
09:21AM 22 EVER SAW THE REPORT WITH JUST THE THERANOS LOGO, HE ONLY SAW
09:21AM 23 THIS ONE WITH THE TWO LOGOS.

09:21AM 24 AND I UNDERSTAND THIS WENT TO INVESTORS. SO WE DON'T
09:21AM 25 OBJECT TO THE DOCUMENT ITSELF COMING IN, BUT WHAT WE OBJECT TO

09:21AM 1 IS QUESTIONING THAT WILL IMPLY THAT THERE WAS ANYTHING IMPROPER
09:21AM 2 ABOUT -- CONNECTED TO THE LOGOS ON THIS REPORT OR ANY ARGUMENT
09:21AM 3 LATER TO THE JURY THAT THIS REPORT WAS SOMEHOW FRAUDULENT OR
09:21AM 4 IMPROPER BECAUSE OF THE TWO LOGOS.

09:21AM 5 MR. BOSTIC: SO, YOUR HONOR, I MAY NOT ACTUALLY USE
09:21AM 6 THAT EXHIBIT AT ALL WITH THIS WITNESS, AND IF I DO, I DON'T
09:21AM 7 PLAN TO HIGHLIGHT THE LOGOS OR MAKE THE KIND OF ARGUMENT THAT
09:22AM 8 THE DEFENSE IS CONCERNED ABOUT WITH THIS WITNESS.

09:22AM 9 MS. WALSH: OKAY. ALL RIGHT.

09:22AM 10 THE COURT: GREAT.

09:22AM 11 MS. WALSH: AND ONE MORE HOUSEKEEPING ITEM, AND I
09:22AM 12 PROMISE I'M DONE.

09:22AM 13 WE HAVE A SHORT VIDEO, IT'S A 45-SECOND VIDEO. WE WILL
09:22AM 14 NEED MR. EDLIN TO AUTHENTICATE IT TO GET IT INTO EVIDENCE, AND
09:22AM 15 WE CAN DO THAT. I'M TOLD BY MS. ROBINSON, WE CAN SHOW HIS
09:22AM 16 SCREEN TO HIM ONLY FOR HIM TO SAY, "YES, I RECOGNIZE IT" OR
09:22AM 17 "NO, I DON'T."

09:22AM 18 BUT I JUST WANTED TO GIVE THE COURT A HEADS UP THAT WE
09:22AM 19 WILL BE DOING THAT.

09:22AM 20 THE COURT: OKAY.

09:22AM 21 MR. BOSTIC: NO OBJECTION TO THAT PROCEDURE,
09:22AM 22 YOUR HONOR. WE'LL SEE WHETHER THIS WITNESS CAN PROPERLY LAY A
09:22AM 23 FOUNDATION FOR THE EXHIBIT.

09:22AM 24 THE COURT: HAVE YOU SEEN THE EXHIBIT?

09:22AM 25 MR. BOSTIC: I HAVE, YES, YOUR HONOR.

09:22AM 1 THE COURT: OKAY. GREAT.

09:22AM 2 SCHEDULING? WILL WE FINISH MR. EDLIN TODAY?

09:22AM 3 MR. BOSTIC: I THINK THE GOVERNMENT HAS TWO HOURS OR
09:22AM 4 LESS REMAINING WITH THIS WITNESS, SO I THINK WE'LL BE PASSING
09:22AM 5 THE WITNESS AROUND THE TIME OF THE FIRST BREAK.

09:23AM 6 THE COURT: OKAY.

09:23AM 7 MS. WALSH: I THINK WE HAVE SEVERAL HOURS OF
09:23AM 8 CROSS-EXAMINATION. IT MAY BE THREE, IT MAY BE FOUR, BUT I HOPE
09:23AM 9 TO FINISH TODAY.

09:23AM 10 THE COURT: OKAY. AND THEN WE HAVE ONE OTHER
09:23AM 11 WITNESS.

09:23AM 12 WILL WE FINISH THAT WITNESS IN OUR HALF DAY IN OUR NEXT
09:23AM 13 SESSION?

09:23AM 14 MR. BOSTIC: I'LL DEFER TO MR. SCHENK, YOUR HONOR.

09:23AM 15 MR. SCHENK: YOUR HONOR, I THINK THAT'S UNLIKELY, I
09:23AM 16 THINK, THAT IF WE HAVE THREE HOURS, SAY, GIVE OR TAKE ON
09:23AM 17 FRIDAY.

09:23AM 18 WHEN THIS WITNESS TESTIFIED IN THE HOLMES TRIAL, HE BEGAN
09:23AM 19 THE DAY AT 9:30, AND HE LEFT THE STAND AT 2:00 P.M. WITH TWO,
09:23AM 20 25 MINUTE BREAKS THAT DAY.

09:23AM 21 SO I SUSPECT THAT HIS TESTIMONY WILL CARRY OVER UNTIL THE
09:23AM 22 FOLLOWING TUESDAY. WE LAST MET AND I CONFERRED WITH HIM THAT
09:23AM 23 HE'S AVAILABLE TO STAY IN TOWN THROUGH NEXT TUESDAY AND FINISH
09:23AM 24 UP HIS TESTIMONY.

09:24AM 25 IF FOR SOME REASON WE COULD NOT MEET NEXT TUESDAY, A

09:24AM 1 STATEMENT THAT I HESITATE TO MAKE, HE WOULD HAVE TO LEAVE TOWN
09:24AM 2 AND WE WOULD HAVE TO CALL SOME OTHER WITNESS OUT OF ORDER AND
09:24AM 3 FINISH HIM LATER. HE CANNOT STAY IN CALIFORNIA PAST TUESDAY.

09:24AM 4 THE COURT: I SEE. OKAY.

09:24AM 5 I'M PAUSING HERE. WHEN I TELL OUR JURY THAT WE'RE GOING
09:24AM 6 TO BREAK AT NOON, IF THERE'S AN EXPRESSION THAT THEY WILL COME
09:24AM 7 BACK IN THE AFTERNOON -- I KNOW WE TALKED ABOUT THIS, AND I
09:24AM 8 THINK WE ALL AGREED THAT IT DOESN'T SOUND LIKE IT'S SOMETHING
09:24AM 9 THAT WE WANT TO DO -- I SUPPOSE THERE'S A POSSIBILITY THAT WE
09:24AM 10 COULD ASK THE JURY TO COME BACK AT 1:00 O'CLOCK, 2:00 O'CLOCK,
09:24AM 11 SOMETHING LIKE THAT.

09:24AM 12 I DON'T KNOW IF THERE'S ANY INTEREST IN THAT. I WOULDN'T
09:24AM 13 WANT TO GO TOO LATE. I THINK IT'S PASSOVER ALSO, AND I
09:24AM 14 WOULDN'T WANT TO GO TOO LATE INTO THE DAY.

09:24AM 15 WITHOUT MAKING ANY INQUIRY, I JUST WANT TO RESPECT THE
09:25AM 16 HOLIDAYS. SO IT MAY BE THAT WE'LL JUST HAVE TO BREAK AT NOON
09:25AM 17 AND TAKE IT AS IT IS. SO. OKAY.

09:25AM 18 MR. SCHENK: I THINK THAT'S PROBABLY RIGHT. MAYBE
09:25AM 19 WE DISCUSS FRIDAY MORNING, BUT UNLESS WE WERE CERTAIN THAT WE
09:25AM 20 WERE GOING TO FINISH MR. JHAVERI BY RETURNING ON FRIDAY, IT
09:25AM 21 SEEMS THAT HE WOULD HAVE TO STAY THROUGH TUESDAY ANYWAY.

09:25AM 22 THE COURT: YES, IT SOUNDS LIKE IT.

09:25AM 23 OKAY. GREAT. THANKS VERY MUCH.

09:25AM 24 MS. WALSH: THANK YOU.

09:25AM 25 (RECESS FROM 9:25 A.M. UNTIL 9:32 A.M.)

09:32AM 1 (JURY IN AT 9:32 A.M.)

09:32AM 2 THE COURT: PLEASE BE SEATED. THANK YOU FOR YOUR

09:32AM 3 COURTESY. GOOD MORNING EVERYONE.

09:32AM 4 WE ARE BACK ON THE RECORD IN THE BALWANI MATTER.

09:32AM 5 ALL COUNSEL ARE PRESENT. MR. BALWANI IS PRESENT.

09:32AM 6 OUR JURY AND ALTERNATES ARE PRESENT.

09:33AM 7 GOOD MORNING EVERYONE. THANK YOU FOR YOUR PATIENCE THIS

09:33AM 8 MORNING. I NEEDED SOME HELP FROM THESE LAWYERS ABOUT A

09:33AM 9 QUESTION, AND THAT'S WHY WE'RE STARTING A LITTLE BIT LATE.

09:33AM 10 BEFORE WE GO FURTHER, LET ME ASK THAT QUESTION.

09:33AM 11 DURING OUR BREAK, DID ANY OF YOU HAVE CAUSE TO VIEW, SEE,

09:33AM 12 READ OR DISCUSS ANYTHING TO DO WITH THIS CASE?

09:33AM 13 IF SO, PLEASE RAISE YOUR HAND.

09:33AM 14 THANK YOU. I SEE NO HANDS.

09:33AM 15 I'D LIKE TO TAKE A MOMENT TO TALK TO YOU ABOUT OUR

09:33AM 16 SCHEDULE.

09:33AM 17 WE'LL GO TODAY UNTIL 4:00 O'CLOCK.

09:33AM 18 FRIDAY WE WILL BREAK AT NOON, AND WE WILL NOT BE IN

09:33AM 19 SESSION THEREAFTER. WE WILL TAKE OUR WEEKEND RECESS AT NOON

09:33AM 20 THIS FRIDAY.

09:33AM 21 WE HAVE SOME OTHER SCHEDULE CHANGES THAT WE'LL PROVIDE FOR

09:33AM 22 YOU.

09:33AM 23 I JUST WANT TO BE TRANSPARENT WITH YOU. I'M CONCERNED

09:33AM 24 ABOUT OUR SCHEDULE THAT WE GAVE YOU EARLIER. AND ONE OF THE

09:33AM 25 THINGS THAT I WAS TALKING TO THE LAWYERS ABOUT IS TRYING TO

09:34AM 1 CAPTURE SOME ADDITIONAL TIME FOR THE TRIAL. THAT MAY MEAN
09:34AM 2 EXTENDING OUR DAYS AND ALSO FINDING ADDITIONAL DAYS ON A MONDAY
09:34AM 3 OR A THURSDAY WHERE WE CAN HAVE SOME SESSIONS.

09:34AM 4 WE'RE GOING TO WORK ON GIVING YOU A PROJECTED SCHEDULE
09:34AM 5 SUCH THAT YOU CAN CHECK YOUR SCHEDULES TO SEE IF THAT WOULD
09:34AM 6 ACCOMMODATE TO CAPTURE EVEN AN EXTRA COUPLE OF HOURS.

09:34AM 7 I THINK -- I DO WANT TO KEEP ON OUR SCHEDULE, THAT IS, THE
09:34AM 8 TIMELINE WHEN WE COMPLETE EVIDENCE. TO DO THAT, I THINK WE'RE
09:34AM 9 GOING TO NEED TO MAKE SOME ADJUSTMENTS, SO I APPRECIATE YOUR
09:34AM 10 CONTINUED COOPERATION. WE'LL GIVE YOU THAT, AND WE'LL WORK ON
09:34AM 11 THAT, AND GIVE YOU THOSE DATES THAT WE'RE GOING TO ASK YOU TO
09:34AM 12 LOOK AT FOR THAT PURPOSE.

09:34AM 13 ANOTHER THING THAT WAS BROUGHT TO MY ATTENTION WAS THE
09:34AM 14 FACT THAT I'M INFORMED THAT YOU HAVE COLLECTIVELY DISCUSSED THE
09:34AM 15 FACT THAT YOU WOULD ALL LIKE TO MOVE INTO THE FIRST CLASS
09:35AM 16 SEATING HERE IN THESE LOVELY SEATS, AND I'M INFORMED THROUGH
09:35AM 17 MS. ROBINSON THAT YOU'VE AGREED THAT THAT'S SOMETHING THAT YOU
09:35AM 18 WOULD LIKE TO DO.

09:35AM 19 IS THERE ANY OBJECTION TO THAT? I DON'T SEE ANY HANDS TO
09:35AM 20 THAT.

09:35AM 21 OKAY. WE WON'T DO THAT NOW, BUT AT OUR NEXT BREAK, WE'LL
09:35AM 22 TRY TO COORDINATE THAT AND SEE IF WE CAN MOVE EVERYBODY UP
09:35AM 23 ACCORDING TO THEIR NUMBERS.

09:35AM 24 WE MAY STILL HAVE -- I THINK THE MATH WILL WORK OUT WHERE
09:35AM 25 ONE INDIVIDUAL MIGHT BE SEATED OUTSIDE. WE'LL PROBABLY HAVE

09:35AM 1 THAT OUTSIDE SEAT ON THIS SIDE CLOSER TO THE WITNESS STAND, BUT
09:35AM 2 THAT WOULD CERTAINLY RELIEVE THOSE IN THE BLEACHER SEATS IN THE
09:35AM 3 FRONT ROW THERE AND GET THEM BACK INTO THE MIX HERE.

09:35AM 4 I WAS JUST HANDED A NOTE AND THIS TELLS ME THAT ONE OR TWO
09:36AM 5 JURORS HAVE BEEN ADVISED TO WEAR SUNSHADES DUE TO LIGHTS AND
09:36AM 6 SCREENS EYE STRAINS AND HEADACHES.

09:36AM 7 IF THIS IS RELATED TO THE LIGHTING IN THE COURTROOM HERE,
09:36AM 8 WE HAVE LED LIGHTS IN THIS COURTROOM. THESE ARE RELATIVELY NEW
09:36AM 9 LIGHTS THAT WERE PUT IN ABOUT THREE YEARS AGO, I THINK. I JUST
09:36AM 10 WANT TO SAY IT IS A MUCH MORE ENHANCED LIGHTING, AND THE
09:36AM 11 LIGHTING THAT THESE REPLACED, THE COURTROOM, IT WAS VERY DIM,
09:36AM 12 AND IT LOOKED LIKE MAYBE THE BASEMENT OF A LIBRARY IN A
09:36AM 13 UNIVERSITY OR SOMETHING. IT WAS QUITE DIM IN HERE.

09:36AM 14 SO IT IS A GREAT ENHANCEMENT. I'M SORRY TO HEAR THAT IT
09:36AM 15 IS CAUSING SOME DIFFICULTIES, BUT IF YOU HAVE TO DO THAT TO
09:36AM 16 LOOK AT THE SCREENS, THAT'S -- I JUST WANT TO SAY THAT.

09:37AM 17 COUNSEL, ANY COMMENT ON THAT?

09:37AM 18 MR. SCHENK: NO, YOUR HONOR.

09:37AM 19 MR. COOPERSMITH: NOTHING, YOUR HONOR.

09:37AM 20 THE COURT: OKAY. THANK YOU.

09:37AM 21 ANY COMMENT ON THE JURY MOVING BACK INTO THE FULL
09:37AM 22 COMPLEMENT OF THE JURY BOX?

09:37AM 23 MR. SCHENK: NO, YOUR HONOR.

09:37AM 24 MS. WALSH: NO, YOUR HONOR.

09:37AM 25 THE COURT: OKAY. THANK YOU.

09:37AM 1 THANK YOU VERY MUCH, FOLKS. THANK YOU FOR THAT.

09:37AM 2 DO WE HAVE THE WITNESS, MR. EDLIN HERE?

09:37AM 3 MR. BOSTIC: YES, YOUR HONOR.

09:37AM 4 THE COURT: GREAT.

09:37AM 5 GOOD MORNING, SIR. IF YOU WOULD RESUME YOUR SEAT. MAKE

09:37AM 6 YOURSELF COMFORTABLE AGAIN.

09:37AM 7 YOU CAN REMOVE YOUR MASK WHILE YOU TESTIFY.

09:37AM 8 WHEN YOU ARE COMFORTABLE, WOULD YOU PLEASE STATE YOUR NAME

09:38AM 9 AGAIN, PLEASE.

09:38AM 10 THE WITNESS: DANIEL EDLIN.

09:38AM 11 THE COURT: THANK YOU, SIR. I'LL REMIND YOU THAT

09:38AM 12 YOU'RE STILL UNDER OATH.

09:38AM 13 THE WITNESS: THANK YOU, YOUR HONOR.

09:38AM 14 **(GOVERNMENT'S WITNESS, DANIEL EDLIN, WAS PREVIOUSLY**

09:38AM 15 **SWORN.)**

09:38AM 16 **DIRECT EXAMINATION (RESUMED)**

09:38AM 17 BY MR. BOSTIC:

09:38AM 18 Q. GOOD MORNING, MR. EDLIN.

09:38AM 19 A. GOOD MORNING.

09:38AM 20 Q. DO YOU RECALL WHEN WE LEFT OFF LAST WEEK WE WERE LOOKING

09:38AM 21 AT SOME COMMUNICATIONS WHERE MS. HOLMES AND MR. BALWANI WERE

09:38AM 22 RECEIVING SOME ADVICE ABOUT CLAIMS ON THE THERANOS WEBSITE?

09:38AM 23 A. I DO.

09:38AM 24 Q. LET'S GO BACK TO THAT JUST BRIEFLY. CAN WE LOOK AT

09:38AM 25 EXHIBIT 3981.

09:38AM 1 THIS IS ALREADY ADMITTED. MAY I PUBLISH, YOUR HONOR?

09:38AM 2 THE COURT: YES.

09:38AM 3 MR. BOSTIC: MS. WACHS, LET'S ZOOM IN ON THE BOTTOM
09:39AM 4 HALF OF THIS PAGE.

09:39AM 5 Q. MR. EDLIN, DO YOU REMEMBER THIS EMAIL FORWARDING TO
09:39AM 6 MS. HOLMES SOME COMMENTS FROM HYMAN PHELPS AND SOMEONE NAMED
09:39AM 7 JAIME WOLSZON?

09:39AM 8 A. RIGHT.

09:39AM 9 Q. AND IF WE CAN ZOOM OUT AND CAPTURE THE TOP HALF OF THE
09:39AM 10 PAGE.

09:39AM 11 DO YOU SEE THAT ON SEPTEMBER 6TH, 2013, MS. HOLMES
09:39AM 12 FORWARDED THIS TO CHRISTIAN HOLMES, HER BROTHER, AND TO
09:39AM 13 SUNNY BALWANI; CORRECT?

09:39AM 14 A. CORRECT.

09:39AM 15 Q. AND CAN YOU REMIND US APPROXIMATELY WHEN DID THERANOS HAVE
09:39AM 16 ITS PUBLIC LAUNCH WHEN IT STARTED OFFERING SERVICES TO THE
09:39AM 17 PUBLIC?

09:39AM 18 A. ABOUT A WEEK AFTER THIS EMAIL.

09:39AM 19 Q. LET'S GO TO PAGE 2 OF THIS EXHIBIT. IF WE CAN ZOOM IN ON
09:39AM 20 THE TOP HALF.

09:39AM 21 MR. EDLIN, DO YOU RECALL SEEING ADVICE LIKE WHAT APPEARS
09:40AM 22 ABOUT TWO-THIRDS DOWN THIS SELECTION WHERE IT SAYS, "REPLACE
09:40AM 23 'HIGHEST QUALITY' WITH 'HIGH QUALITY'?"

09:40AM 24 A. YES.

09:40AM 25 Q. AND THE SECOND BULLET DOWN FROM THE TOP IT READS, "FOR A

09:40AM 1 SIMILAR REASON," AS MENTIONED ABOVE, "REPLACE 'FULL RANGE' WITH
09:40AM 2 'BROAD RANGE.'"

09:40AM 3 DO YOU SEE THAT?

09:40AM 4 A. I DO.

09:40AM 5 Q. AND LET'S LOOK AT THE BOTTOM HALF OF THIS PAGE.

09:40AM 6 AND DO YOU SEE THAT THE THIRD UP FROM THE BOTTOM INCLUDES
09:40AM 7 THE ADVICE, "REPLACE 'HIGHEST LEVELS OF ACCURACY' WITH 'HIGH
09:40AM 8 LEVELS OF ACCURACY'?"

09:40AM 9 A. YES.

09:40AM 10 Q. I'D LIKE YOU TO LOOK AT ANOTHER DOCUMENT. AND I'LL BE
09:40AM 11 HANDING YOU SOME ADDITIONAL MATERIALS TODAY.

09:40AM 12 MAY I APPROACH, YOUR HONOR?

09:40AM 13 THE COURT: YES.

09:40AM 14 MR. BOSTIC: (HANDING.)

09:41AM 15 Q. MR. EDLIN, I'VE HANDED YOU WHAT HAS BEEN MARKED AS 5805.
09:41AM 16 DO YOU HAVE THAT IN FRONT OF YOU?

09:41AM 17 A. YES.

09:41AM 18 Q. AND HAVE YOU REVIEWED THIS DOCUMENT BEFORE?

09:41AM 19 A. YES.

09:41AM 20 Q. AND DO YOU RECOGNIZE WHAT IT IS?

09:41AM 21 A. I DO.

09:41AM 22 Q. WHAT IS 5805?

09:41AM 23 A. THIS IS CONSISTENT WITH MY RECOLLECTION OF THE THERANOS
09:41AM 24 WEBSITE.

09:41AM 25 Q. OKAY. AND CAN YOU TELL US APPROXIMATELY WHAT TIME

09:41AM 1 PERIOD -- WELL, LET ME ASK, IN YOUR ROLE AT THERANOS, DID YOU
09:41AM 2 HAVE OCCASION TO REVIEW THE THERANOS WEBSITE?

09:41AM 3 A. YES.

09:41AM 4 Q. AND FOR WHAT REASON DID YOU REVIEW THE THERANOS WEBSITE
09:42AM 5 WHEN YOU WERE WORKING AT THE COMPANY?

09:42AM 6 A. WELL, IT WAS THE COMPANY'S WEBSITE, SO I OFTENTIMES
09:42AM 7 CHECKED IT. SOMETIMES I WAS PART OF A TEAM THAT WAS INVOLVED
09:42AM 8 WITH MAKING UPDATES TO THE WEBSITE, AND IN THOSE INSTANCES I
09:42AM 9 CHECKED THE WEBSITE AS WELL.

09:42AM 10 Q. AND IN THE COURSE OF THAT, DID YOU BECOME GENERALLY
09:42AM 11 FAMILIAR WITH THE CONTENT OF THE WEBSITE?

09:42AM 12 A. YES.

09:42AM 13 Q. AND DOES EXHIBIT 5805 REFLECT THAT CONTENT? IS IT
09:42AM 14 CONSISTENT WITH YOUR RECOLLECTION?

09:42AM 15 A. IT IS.

09:42AM 16 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 5805.

09:42AM 17 MS. WALSH: NO OBJECTION.

09:42AM 18 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

09:42AM 19 (GOVERNMENT'S EXHIBIT 5805 WAS RECEIVED IN EVIDENCE.)

09:42AM 20 MR. BOSTIC: AND, YOUR HONOR, AS TO THIS DOCUMENT,
09:42AM 21 I'VE RUN THIS BY THE DEFENSE, WE WOULD LIKE TO PUBLISH A NATIVE
09:42AM 22 VERSION OF THIS PDF. IT'S THE SAME CONTENT, BUT IT WILL BE
09:43AM 23 MORE LEGIBLE ON THE SCREEN.

09:43AM 24 THE COURT: THAT'S FINE.

09:43AM 25 BY MR. BOSTIC:

09:43AM 1 Q. MR. EDLIN, DO YOU SEE HERE THAT THIS IS A VERSION OF THE
09:43AM 2 THERANOS WEBSITE FROM THE WAYBACK MACHINE AS INDICATED AT THE
09:43AM 3 TOP OF THE PAGE?

09:43AM 4 DO YOU SEE THAT?

09:43AM 5 A. YES.

09:43AM 6 Q. AND AT THE UPPER RIGHT HAND OF THE PAGE THERE'S A DATE
09:43AM 7 INDICATED FEBRUARY 8TH, 2014.

09:43AM 8 DO YOU SEE THAT?

09:43AM 9 A. I DO.

09:43AM 10 Q. IS THERE ANYTHING ABOUT THE APPEARANCE OF THIS WEBSITE
09:43AM 11 THAT IS CONSISTENT WITH THAT DATE BASED ON YOUR RECOLLECTION?

09:43AM 12 A. WELL, I CAN SEE THAT THE THERANOS LOGO IS A VERSION THAT I
09:43AM 13 BELIEVE WAS THE LOGO AT THE TIME. I KNOW THAT IT WAS CHANGED
09:43AM 14 AT SOME POINT LATER ON.

09:43AM 15 Q. AND THE VERSION OF THE LOGO THAT WE'RE LOOKING AT IS
09:43AM 16 CONSISTENT WITH THE EARLIER VERSION OF THE LOGO?

09:44AM 17 A. THERE WAS A VERSION OF THE LOGO WHEN I FIRST JOINED THE
09:44AM 18 COMPANY IN 2011, AND THEN IT CHANGED TO THIS VERSION, AND THEN
09:44AM 19 THERE WAS A THIRD.

09:44AM 20 Q. LET'S LOOK AT SOME OF THE CONTENT ON THE THERANOS WEBSITE
09:44AM 21 AT THIS TIME.

09:44AM 22 IF WE CAN ZOOM OUT TO CAPTURE MORE OF THIS PAGE, AND THEN
09:44AM 23 UNDER WHERE IT SAYS, "THE LAB TEST, REINVENTED," LET'S ZOOM IN
09:44AM 24 ON THAT LANGUAGE.

09:44AM 25 AND, MR. EDLIN, DO YOU SEE -- AND JUST BEAR WITH US.

09:44AM 1 DO YOU SEE AT THE LOWER LEFT-HAND CORNER OF THE PAGE IT
09:44AM 2 SAYS, "THE LAB TEST, REINVENTED"?

09:44AM 3 AND IT READS, "NO BIG NEEDLES. NO ENDLESS WAITING. WE'VE
09:44AM 4 BUILT A WHOLE NEW APPROACH TO GETTING YOU ANSWERS"?

09:44AM 5 A. YES.

09:44AM 6 Q. AND LET'S GO TO THE SECOND PAGE OF THIS WEBSITE.

09:45AM 7 LET'S SEE. A LITTLE FURTHER DOWN. THERE'S A SECTION WITH
09:45AM 8 A HEADING "ONE DROP. A WORLD OF ANSWERS."

09:45AM 9 CAN WE MAKE THAT A LITTLE LARGER, MS. WACHS.

09:45AM 10 DO YOU SEE, MR. EDLIN, THERE'S TEXT THERE THAT SAYS, "OUR
09:45AM 11 LABORATORY CAN PRECISELY ANALYZE TINY SAMPLES. A FEW DROPS ARE
09:45AM 12 ALL WE NEED TO PERFORM MOST TESTS. SO NOW, YOU CAN HAVE YOUR
09:45AM 13 LABS -- FROM BLOOD, URINE, FLUIDS, AND MORE -- DONE QUICKLY,
09:45AM 14 EASILY, AND ACCURATELY."

09:45AM 15 DO YOU SEE THAT?

09:45AM 16 A. YES.

09:45AM 17 Q. LET'S GO A LITTLE FURTHER DOWN. LET'S SEE. UNDER A "A
09:45AM 18 FULL RANGE OF TESTS," DO YOU SEE THERE'S A SECTION THAT SAYS "A
09:45AM 19 FULL RANGE OF TESTS. A FRACTION OF THE COST"?

09:45AM 20 A. YES.

09:45AM 21 Q. AND THEN THERE'S TEXT THAT SAYS, "WE OFFER A FULL RANGE OF
09:45AM 22 LABORATORY TESTS, FROM COMMON PANELS TO SPECIALIZED TESTS. ALL
09:45AM 23 WITH SPEED AND THE HIGHEST LEVELS OF QUALITY."

09:46AM 24 DO YOU SEE THAT?

09:46AM 25 A. YES.

09:46AM 1 Q. AND I WANT TO ASK YOU ABOUT THAT PHRASE "HIGHEST LEVELS OF
09:46AM 2 QUALITY."

09:46AM 3 FIRST OF ALL, DO YOU RECALL SEEING THAT PHRASE IDENTIFIED
09:46AM 4 ON THE DOCUMENT WITH ADVICE THAT WE WERE JUST LOOKING AT
09:46AM 5 BEFORE?

09:46AM 6 A. YES.

09:46AM 7 Q. WE ALSO SAW ON THAT DOCUMENT MENTION OF THE PHRASE
09:46AM 8 "HIGHEST LEVELS OF ACCURACY."

09:46AM 9 DO YOU RECALL THAT?

09:46AM 10 A. YES.

09:46AM 11 Q. DO YOU RECALL ANY DISCUSSIONS WHEN YOU WERE AT THERANOS
09:46AM 12 ABOUT THE TERM "QUALITY" VERSUS THE TERM "ACCURACY"?

09:46AM 13 A. VAGUELY.

09:46AM 14 Q. WHAT DO YOU REMEMBER ABOUT THAT?

09:46AM 15 A. I REMEMBER THERE WERE DISCUSSIONS ABOUT WHAT WORDING TO
09:46AM 16 USE TO DESCRIBE AFTER SEEING "QUALITY."

09:46AM 17 Q. AND IN THOSE DISCUSSIONS WAS THERE A DIFFERENCE BETWEEN
09:46AM 18 HOW QUALITY WAS BEING USED AND HOW ACCURACY WAS BEING USED?

09:46AM 19 A. I DON'T RECALL.

09:46AM 20 Q. DURING YOUR TIME AT THERANOS AND IN THIS CONTEXT, WAS
09:46AM 21 THERE A MEANING FOR THE TERM "QUALITY" THAT MEANT SOMETHING
09:47AM 22 OTHER THAN ACCURACY AND RELIABILITY OF TESTS?

09:47AM 23 MS. WALSH: OBJECTION. LEADING.

09:47AM 24 THE COURT: SUSTAINED.

09:47AM 25 BY MR. BOSTIC:

09:47AM 1 Q. MR. EDLIN, DID THE TERM "QUALITY" AT THERANOS, IN YOUR
09:47AM 2 EXPERIENCE, HAVE A SPECIAL OR UNIQUE MEANING?

09:47AM 3 A. NOT THAT I WAS AWARE OF.

09:47AM 4 Q. AND AS IT WAS USED IN THIS CONTEXT, WAS IT EQUIVALENT TO
09:47AM 5 OR WAS IT DIFFERENT FROM ACCURACY AND RELIABILITY?

09:47AM 6 A. I THINK IT WAS SIMILAR.

09:47AM 7 Q. LET'S GO TO PAGE 3 OF THE EXHIBIT. LET'S SEE.

09:47AM 8 THERE'S A HEADING THAT READS, "A FEW DROPS IS ALL IT
09:48AM 9 TAKES."

09:48AM 10 DO YOU SEE THAT?

09:48AM 11 A. YES.

09:48AM 12 Q. AND THERE THE WEBSITE READS, "THERANOS'S PATENTED
09:48AM 13 TECHNOLOGY CAN ANALYZE SAMPLES AS SMALL AS 1/1,000 THE SIZE OF
09:48AM 14 A TYPICAL BLOOD DRAW. OUR TESTS ARE CERTIFIED IN OUR CLIA
09:48AM 15 LABORATORY AND COVER A FULL RANGE FROM BLOOD, URINE, AND OTHER
09:48AM 16 SAMPLES. IT'S FAST, EASY, AND THE HIGHEST LEVEL OF QUALITY."

09:48AM 17 SO WE SEE AGAIN THAT "HIGHEST LEVEL OF QUALITY" LANGUAGE
09:48AM 18 APPEARING?

09:48AM 19 A. RIGHT.

09:48AM 20 Q. AND LET'S GO DOWN ON THE SAME PAGE.

09:48AM 21 I THINK THERE'S A SECTION THAT BEGINS "HIGH LEVELS OF
09:48AM 22 PRECISION."

09:48AM 23 DO YOU SEE THAT?

09:48AM 24 A. YES.

09:48AM 25 Q. AND THERE THE TEXT SAYS, "BY SYSTEMATICALLY CONTROLLING

09:48AM 1 AND STANDARDIZING OUR MICRO-PROCESSES, WE OFFER TESTS WITH HIGH
09:48AM 2 LEVELS OF PRECISION."

09:48AM 3 DO YOU SEE THAT?

09:48AM 4 A. YES.

09:48AM 5 Q. AND THEN IT SAYS, "WE'VE ALSO AUTOMATED OUR PRE- AND
09:49AM 6 POST-ANALYTIC PROCESSES, MINIMIZING HUMAN PROCESSING -- THE
09:49AM 7 CAUSE OF THE MAJORITY OF LAB-TEST ERRORS."

09:49AM 8 DID I READ THAT CORRECTLY?

09:49AM 9 A. YES.

09:49AM 10 Q. AND WHEN YOU WERE AT THE COMPANY, DID YOU HAVE A BASIS TO
09:49AM 11 KNOW WHETHER CLAIMS LIKE THIS WERE TRUE OR FALSE?

09:49AM 12 A. I HAD NO BASIS TO KNOW, BUT I HAD NO REASON TO DOUBT THAT
09:49AM 13 THE CLAIMS WERE ACCURATE.

09:49AM 14 Q. LET'S GO TO PAGE 6 NEXT.

09:49AM 15 AND ACTUALLY, GOING BACK UP TO THAT FIRST BLOCK OF TEXTS
09:49AM 16 UNDER "INNOVATION MEETS ACCESSIBILITY."

09:49AM 17 DO YOU SEE HERE THE WEBSITE CLAIMS THAT "BECAUSE WE
09:49AM 18 BELIEVE EVERYONE DESERVES ACCESS TO THE BEST TECHNOLOGY, THE
09:49AM 19 BEST SCIENCE, AND THE BEST TOOLS TO HELP THEM AND THEIR DOCTOR
09:49AM 20 KNOW MORE ABOUT THEIR HEALTH"?

09:49AM 21 A. I SEE THAT, YES.

09:50AM 22 Q. LET'S GO TO PAGE 21 NEXT.

09:50AM 23 AND UNDER THAT SECTION THAT SAYS, "WELCOME TO THERANOS,"
09:50AM 24 DO YOU SEE THERE'S LANGUAGE THAT SAYS, "THERANOS'S LABORATORY
09:50AM 25 CAN ANALYZE SMALLER SAMPLES THAN PREVIOUSLY POSSIBLE, WITH

09:50AM 1 SPEED AND THE HIGHEST LEVELS OF ACCURACY"?

09:50AM 2 DO YOU SEE THAT?

09:50AM 3 A. YES.

09:50AM 4 Q. THAT LANGUAGE, "THE HIGHEST LEVELS OF ACCURACY," IS THAT
09:50AM 5 THE SAME LANGUAGE THAT WE SAW MS. HOLMES AND MR. BALWANI BEING
09:50AM 6 ADVISED AGAINST USING EARLIER?

09:50AM 7 A. I BELIEVE SO.

09:50AM 8 Q. AND AGAIN, IN THE BOTTOM OF THAT SECTION, DO YOU SEE
09:50AM 9 THERE'S ANOTHER REFERENCE TO "THE HIGHEST-QUALITY LAB TESTING"?

09:50AM 10 A. YES.

09:50AM 11 Q. OKAY. FINALLY, LET'S GO TO PAGE 22. IF WE CAN MOVE OVER
09:51AM 12 A LITTLE BIT.

09:51AM 13 SO UNDER THIS BLOCK OF TEXT THERE'S A HEADING "ONE TINY
09:51AM 14 DROP. THOUSANDS OF ANSWERS."

09:51AM 15 DO YOU SEE THAT?

09:51AM 16 A. YES.

09:51AM 17 Q. AND THE LANGUAGE HERE SAYS, "THERANOS CAN PERFORM A FULL
09:51AM 18 RANGE OF TESTS ON SAMPLES AS SMALL AS A FEW TINY DROPS."

09:51AM 19 DO YOU SEE THAT?

09:51AM 20 A. YES.

09:51AM 21 Q. AND THEN SKIPPING DOWN A LITTLE BIT. DO YOU SEE THERE'S
09:51AM 22 LANGUAGE THAT SAYS, "AND WE PROVIDE THE HIGHEST LEVEL OF
09:51AM 23 OVERSIGHT, AUTOMATION, AND STANDARDIZATION IN BOTH OUR PRE- AND
09:51AM 24 POST-ANALYTIC PROCESSES, TO REALIZE THE HIGHEST LEVEL OF
09:51AM 25 ACCURACY AND PRECISION"?

09:51AM 1 DO YOU SEE THAT?

09:51AM 2 A. YES.

09:51AM 3 Q. OKAY. YOU CAN PUT THAT EXHIBIT ASIDE. THANK YOU.

09:51AM 4 BESIDES THE PUBLIC THERANOS WEBSITE, DID THE COMPANY ALSO
09:52AM 5 MARKET TO PATIENTS USING BROCHURES AND OTHER MARKETING
09:52AM 6 MATERIALS?

09:52AM 7 A. YES.

09:52AM 8 Q. AND DID YOU HAVE ANY ROLE IN CONNECTION WITH DEVELOPING
09:52AM 9 AND REVIEWING THE CONTENT FOR THOSE MATERIALS?

09:52AM 10 A. I HAD A ROLE IN FACILITATING THE REVIEW AND APPROVAL AND
09:52AM 11 THE INVESTMENT OF THOSE MATERIALS.

09:52AM 12 Q. DESCRIBE THAT. WHAT DID YOUR ROLE ACTUALLY REQUIRE YOU TO
09:52AM 13 DO?

09:52AM 14 A. IN MY ROLE I WORKED WITH TBWACHIAT/DAY. IN PARTNERSHIP
09:52AM 15 WITH THEIR ACCOUNT MANAGERS CHIAT/DAY DEVELOPED CONTENT, AND I
09:52AM 16 MADE SURE THAT THAT CONTENT WAS REVIEWED AND APPROVED BY SUNNY
09:52AM 17 AND ELIZABETH IN A TIMELY FASHION, AND THEN SENT BACK TO
09:52AM 18 CHIAT/DAY.

09:52AM 19 Q. DID YOU COME TO UNDERSTAND IN THAT ROLE WHAT KIND OF
09:52AM 20 APPROVAL WAS NECESSARY FOR THAT MARKETING CONTENT?

09:52AM 21 A. ELIZABETH AND SUNNY'S APPROVAL.

09:53AM 22 Q. DID YOU EVER OBSERVE SITUATIONS WHERE -- FIRST OF ALL, LET
09:53AM 23 ME ASK JUST SO IT'S CLEAR, WHAT WAS CHIAT/DAY?

09:53AM 24 A. A MARKETING AND ADVERTISING AGENCY THAT THERANOS WORKED
09:53AM 25 WITH.

09:53AM 1 Q. INDEPENDENT FROM THERANOS?

09:53AM 2 A. YES.

09:53AM 3 Q. DID YOU EVER OBSERVE AN INSTANCE WHERE CHIAT/DAY WAS ABLE
09:53AM 4 TO MAKE THE DECISION ON ITS OWN ABOUT WHO WOULD APPEAR IN ITS
09:53AM 5 MARKETING DOCUMENTATION?

09:53AM 6 A. NO. IT REQUIRES APPROVAL.

09:53AM 7 Q. AND IN REQUIRING APPROVAL FROM THERANOS, WAS THERE ANYONE
09:53AM 8 AT THE COMPANY BESIDES MS. HOLMES AND MR. BALWANI WHO HAD THE
09:53AM 9 AUTHORITY TO PROVIDE THAT APPROVAL FOR THE MARKETING MATERIALS?

09:53AM 10 A. NO.

09:53AM 11 Q. HOW ABOUT YOU, WERE YOU EXERCISING YOUR JUDGMENT IN
09:53AM 12 DECIDING WHAT THESE DOCUMENTS WOULD SAY?

09:53AM 13 A. NO.

09:53AM 14 Q. IN DOING THAT WORK, DID YOU BECOME GENERALLY FAMILIAR WITH
09:54AM 15 THE CONTENT OF THE BROCHURES AND MARKETING MATERIALS?

09:54AM 16 A. I DID.

09:54AM 17 Q. OKAY. I'D LIKE TO SHOW YOU ANOTHER DOCUMENT.

09:54AM 18 MAY I APPROACH, YOUR HONOR?

09:54AM 19 THE COURT: YES.

09:54AM 20 MR. BOSTIC: (HANDING.)

09:54AM 21 Q. MR. EDLIN, DO YOU HAVE EXHIBIT 5804 IN FRONT OF YOU?

09:54AM 22 A. YES.

09:54AM 23 Q. AND IS 5804 A 2013 SEPTEMBER 9TH EMAIL FROM
09:54AM 24 CHRISTIAN HOLMES TO INDIVIDUALS AT WALGREENS?

09:55AM 25 A. YES.

09:55AM 1 Q. DO YOU RECOGNIZE THE NAMES OF THE INDIVIDUALS AT
09:55AM 2 WALGREENS?
09:55AM 3 A. I RECOGNIZE ONE NAME.
09:55AM 4 Q. AND IS THAT NAME A NAME OF SOMEONE THAT YOU HAD CONTACT
09:55AM 5 WITH IN THIS ROLE AT THERANOS WHEN YOU WORKED THERE?
09:55AM 6 A. YES.
09:55AM 7 Q. AND CAN YOU DESCRIBE, IN CONNECTION WITH THE BROCHURE AND
09:55AM 8 MARKETING MATERIALS THAT WE'RE TALKING ABOUT, WHAT WAS
09:55AM 9 CHRISTIAN HOLMES'S ROLE?
09:55AM 10 A. CHRISTIAN WAS THE TEAM LEAD FOR THE PRODUCT MANAGEMENT
09:55AM 11 TEAM, AND HE WAS THE MAIN POINT OF CONTACT WHO INTERFACED WITH
09:55AM 12 WALGREENS.
09:55AM 13 Q. AND I'LL ASK YOU TO LOOK AT PAGE 3 OF THE EXHIBIT, PLEASE.
09:56AM 14 TELL ME IF YOU RECOGNIZE THE DOCUMENT THAT STARTS AT
09:56AM 15 PAGE 3?
09:56AM 16 A. I DO.
09:56AM 17 Q. WHAT IS IT?
09:56AM 18 A. IT IS A MECHANICAL FOR THE BROCHURE, PATIENT BROCHURE.
09:56AM 19 Q. AND WHAT DOES THAT MEAN, "A MECHANICAL"?
09:56AM 20 A. IT'S ESSENTIALLY A DRAFT OF THE BROCHURE BEFORE IT GETS
09:56AM 21 PRINTED.
09:56AM 22 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 5804.
09:56AM 23 MS. WALSH: OBJECTION, YOUR HONOR. HEARSAY.
09:56AM 24 THIS WITNESS IS NOT ON THIS EMAIL, AND IT CONTAINS HEARSAY
09:56AM 25 WITHIN.

09:56AM 1 MR. BOSTIC: SO, YOUR HONOR, THE PARTIES'
09:56AM 2 STIPULATION COVERS THIS DOCUMENT AS TO AUTHENTICATION, AND I
09:56AM 3 BELIEVE THIS WITNESS HAS LAID A FOUNDATION FOR ITS ADMISSION.

09:56AM 4 THE COURT: ALL RIGHT. THANK YOU. I'LL OVERRULE
09:56AM 5 THE OBJECTION. THIS IS ADMITTED.

09:56AM 6 (GOVERNMENT'S EXHIBIT 5804 WAS RECEIVED IN EVIDENCE.)

09:57AM 7 MR. BOSTIC: MAY WE PUBLISH, YOUR HONOR?

09:57AM 8 THE COURT: YES.

09:57AM 9 MR. BOSTIC: IF WE CAN DISPLAY 5804.

09:57AM 10 I THINK WE NEED TO RESET THE SYSTEM PERHAPS.

09:57AM 11 THE CLERK: SURE.

09:57AM 12 (PAUSE IN PROCEEDINGS.)

09:58AM 13 MR. BOSTIC: MAY I HAVE A MOMENT, YOUR HONOR?

09:58AM 14 THE COURT: YES.

09:58AM 15 (PAUSE IN PROCEEDINGS.)

09:58AM 16 MR. BOSTIC: SO I THINK WE'RE DISPLAYING IT, BUT
09:58AM 17 IT'S NOT COMING UP ON THE SCREEN FOR SOME REASON.

09:58AM 18 THE CLERK: DO YOU WANT TO USE THE ELMO?

09:58AM 19 MR. BOSTIC: WE CAN.

09:58AM 20 SO, YOUR HONOR, I'LL TRY DISPLAYING THIS ON THE ELMO, AND
09:58AM 21 WE'LL SEE IF THE RESOLUTION IS GOOD ENOUGH.

09:58AM 22 THE COURT: SURE.

09:58AM 23 BY MR. BOSTIC:

09:58AM 24 Q. FIRST OF ALL, MR. EDLIN, DO YOU SEE THAT WE'RE LOOKING AT
09:58AM 25 AN EMAIL FROM CHRISTIAN HOLMES TO INDIVIDUALS AT WALGREENS?

09:58AM 1

A. YES.

09:58AM 2

Q. AND DO YOU SEE THAT THE TEXT OF HIS EMAIL SAYS, "ATTACHED IS THE UPDATED BROCHURE MECHANICAL."

09:58AM 3

09:59AM 4

AND THEN IT SAYS, "PLEASE USE THIS VERSION FOR ADDITIONAL ROUNDS OF BROCHURES TO BE DELIVERED TO STORES, AND HOPEFULLY IN THE NEAR TERM."

09:59AM 5

09:59AM 6

09:59AM 7

IT SAYS, "WE WENT AHEAD AND PRINTED A FEW HUNDRED OF THESE TO PUT IN THE STORES UNTIL THE NEW BATCH ARRIVES FROM YOUR END."

09:59AM 8

09:59AM 9

09:59AM 10

DO YOU SEE THAT LANGUAGE?

09:59AM 11

A. YES.

09:59AM 12

Q. OKAY. LET'S SEE IF WE CAN CAPTURE THE CONTENT.

09:59AM 13

DO YOU SEE WHAT IS DISPLAYED ON THE SCREEN NOW?

09:59AM 14

A. YES.

09:59AM 15

Q. AND IS THIS WHAT YOU IDENTIFIED BEFORE AS THE ACTUAL BROCHURE ITSELF?

09:59AM 16

09:59AM 17

A. I THINK I IDENTIFIED IT AS THE MECHANICAL FOR THE BROCHURE.

09:59AM 18

09:59AM 19

Q. AND DOES THE MECHANICAL FOR THE BROCHURE HAVE THE SAME CONTENT?

10:00AM 20

10:00AM 21

A. YES.

10:00AM 22

Q. LET'S SEE. I'LL DRAW YOUR ATTENTION TO ONE SECTION THAT READS, "ONE TINY DROP CHANGES EVERYTHING."

10:00AM 23

10:00AM 24

DO YOU SEE THAT?

10:00AM 25

A. YES.

10:00AM 1 Q. AND THEN UNDERNEATH THERE'S LANGUAGE THAT SAYS, "AT
10:00AM 2 THERANOS, WE'RE CHANGING LAB TESTING FOREVER. AS THE WORLD'S
10:00AM 3 FIRST AND ONLY CLIA-CERTIFIED LABORATORY CAPABLE OF RUNNING ALL
10:00AM 4 OF ITS TESTS ON MICRO-SAMPLES, WE CAN PERFORM OUR TESTS ON TINY
10:00AM 5 SAMPLE AMOUNTS."

10:00AM 6 DO YOU SEE THAT?

10:00AM 7 A. YES.

10:00AM 8 Q. LET'S SEE. I'LL SHOW YOU ANOTHER SECTION.

10:00AM 9 DO YOU SEE HERE IT SAYS, "ONE DROP. A WORLD OF ANSWERS"?

10:00AM 10 A. YES.

10:00AM 11 Q. AND UNDER THAT SECTION DO YOU SEE IT READS, "WITH
10:01AM 12 THERANOS, ALL WE NEED IS A TINY SAMPLE"?

10:01AM 13 A. YES.

10:01AM 14 Q. AND IT THEN SAYS, "AND FROM THAT SAMPLE, WE CAN PERFORM
10:01AM 15 THE FULL RANGE OF TESTS."

10:01AM 16 DO YOU SEE THAT?

10:01AM 17 A. YES.

10:01AM 18 Q. I'LL SHOW YOU THE NEXT PAGE OF THIS BROCHURE.

10:01AM 19 ARE WE LOOKING AT NOW AN ADDITIONAL PAGE OF CONTENT FOR
10:01AM 20 THIS PATIENT BROCHURE?

10:01AM 21 A. YES.

10:01AM 22 Q. BY THE WAY, DO YOU KNOW FROM YOUR WORK ON THE WALGREENS
10:01AM 23 ROLLOUT HOW THIS WAS DISTRIBUTED OR WHERE IT WAS PLACED?

10:01AM 24 A. IT WAS PLACED IN THERANOS WELLNESS CENTERS WITHIN
10:01AM 25 WALGREENS STORES.

10:01AM 1 Q. AND WHO WAS THE INTENDED AUDIENCE FOR THIS BROCHURE?

10:01AM 2 A. GUESTS OR PATIENTS WHO CAME IN TO GET LAB TESTING.

10:02AM 3 Q. ON PAGE 4 OF THE EXHIBIT, SO THE SECOND PAGE OF THIS
10:02AM 4 BROCHURE, THERE'S A HEADING THAT SAYS, "BETTER ANSWERS,
10:02AM 5 FASTER."

10:02AM 6 DO YOU SEE THAT?

10:02AM 7 A. YES.

10:02AM 8 Q. AND THERE'S A CLAIM UNDERNEATH IT THAT SAYS, "BY
10:02AM 9 AUTOMATING OUR PRE- AND POST-ANALYTIC PROCESSES, WE DRASTICALLY
10:02AM 10 MINIMIZE HUMAN PROCESSING -- THE CAUSE OF THE MAJORITY OF LAB
10:02AM 11 TEST ERRORS. BY STANDARDIZING OUR PROCESSES, WE OFFER TESTS
10:02AM 12 WITH THE HIGHEST LEVELS OF ACCURACY."

10:02AM 13 DO YOU SEE THAT?

10:02AM 14 A. YES.

10:02AM 15 Q. OKAY. YOU CAN SET THAT ASIDE. THANK YOU.

10:02AM 16 DO YOU RECALL DURING YOUR TIME AT THERANOS, AN ARTICLE
10:02AM 17 BEING WRITTEN BY SOMEONE NAMED JOSEPH RAGO AT "THE
10:03AM 18 WALL STREET JOURNAL"?

10:03AM 19 A. YES.

10:03AM 20 Q. AND CAN I ASK YOU TO LOOK AT THE BINDER IN FRONT OF YOU AT
10:03AM 21 TAB 1090.

10:03AM 22 A. OKAY.

10:03AM 23 Q. AND AT 1090, DO YOU SEE AN EMAIL FROM JEFFRY BLICKMAN TO
10:03AM 24 MR. BALWANI, MS. HOLMES, CHRISTIAN HOLMES, AND YOU AT THERANOS?

10:03AM 25 A. YES.

10:03AM 1 Q. AND IS THAT EMAIL DATED SEPTEMBER 2013 -- OR SORRY,
10:03AM 2 SEPTEMBER 6TH, 2013?

10:03AM 3 A. YES.

10:03AM 4 Q. AND DOES THIS RELATE TO THE CONTENT OF THAT ARTICLE?

10:03AM 5 A. YES.

10:03AM 6 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 1090.

10:04AM 7 MS. WALSH: OBJECTION. HEARSAY WITHIN HEARSAY.

10:04AM 8 MR. BOSTIC: SO, YOUR HONOR, THIS ARTICLE ITSELF IS
10:04AM 9 ALREADY ADMITTED AS EXHIBIT 1106.

10:04AM 10 THE PURPOSE OF THIS EXHIBIT IS TO SHOW MR. BALWANI'S
10:04AM 11 REVIEW OF THE CONTENT BEFORE IT WAS PUBLISHED.

10:04AM 12 THE COURT: ALL RIGHT. THANK YOU.

10:04AM 13 THE OBJECTION IS OVERRULED. THIS IS ADMITTED, AND IT MAY
10:04AM 14 BE PUBLISHED.

10:04AM 15 (GOVERNMENT'S EXHIBIT 1106 WAS RECEIVED IN EVIDENCE.)

10:04AM 16 MR. BOSTIC: LET'S ZOOM IN ON THE BOTTOM HALF OF
10:04AM 17 THIS PAGE, PLEASE.

10:04AM 18 Q. MR. EDLIN, DO YOU SEE THAT THIS EMAIL STARTS WITH AN EMAIL
10:04AM 19 FROM JOE RAGO?

10:04AM 20 A. YES.

10:04AM 21 Q. AND WHO WAS JOE RAGO?

10:05AM 22 A. HE WAS A REPORTER OR A WRITER FOR "THE
10:05AM 23 WALL STREET JOURNAL."

10:05AM 24 Q. AND IN THIS EMAIL ON SEPTEMBER 6TH HE WRITES TO MS. HOLMES
10:05AM 25 AND JEFFRY BLICKMAN AT THERANOS.

10:05AM 1 DO YOU SEE THAT?

10:05AM 2 A. YES.

10:05AM 3 Q. AND THE SUBJECT LINE IS READBACK.

10:05AM 4 HE SAYS, "DEEPLY SORRY FOR THE DELAY, COULDN'T BE HELPED
10:05AM 5 ON MY END, BUT PLEASE FIND BELOW ALL THE QUOTES WE PLAN TO USE
10:05AM 6 IN THE INTERVIEW, MY PARAPHRASES AND ALL FACTUAL STATEMENTS
10:05AM 7 ABOUT THERANOS."

10:05AM 8 DO YOU SEE THAT?

10:05AM 9 A. YES.

10:05AM 10 Q. LET'S GO UP TO -- SORRY. LET ME JUST GO DOWN TO THE
10:05AM 11 SECOND PARAGRAPH IN THIS EMAIL.

10:05AM 12 IT SAYS, "IF ANY POINTS NEED TO BE CLARIFIED, IF I'VE
10:05AM 13 EXPLAINED SOMETHING INCOMPLETELY OR LEFT OUT SOMETHING
10:05AM 14 IMPORTANT, OR OF COURSE IF THERE'S AN OUT AND OUT ERROR PLEASE
10:05AM 15 LET ME KNOW AND WE'LL CORRECT."

10:05AM 16 DO YOU SEE THAT?

10:05AM 17 A. YES.

10:05AM 18 Q. AND LET'S ZOOM OUT AND ZOOM IN ON THE TOP HALF OF THIS
10:06AM 19 PAGE.

10:06AM 20 AND WE SEE HERE A MESSAGE FROM JEFF BLICKMAN TO MS. HOLMES
10:06AM 21 AND MR. BALWANI AND OTHERS AT THERANOS; CORRECT?

10:06AM 22 A. JEFF SENDS IT TO ELIZABETH AND THEN COPIES THE OTHERS,
10:06AM 23 YES.

10:06AM 24 Q. AND HE SAYS, "WENT THREW THIS AND HIGHLIGHTED A FEW THINGS
10:06AM 25 IN YELLOW DIRECTLY IN HIS EMAIL, AND SUMMARIZED BELOW."

10:06AM 1 DO YOU SEE THAT?

10:06AM 2 A. YES.

10:06AM 3 Q. AND AMONG THE ISSUES THAT HE NOTES, TOWARDS THE BOTTOM OF
10:06AM 4 THE SELECTION, THE THIRD HASHMARK FROM THE BOTTOM THERE'S A
10:06AM 5 LINE THAT SAYS, "HE CALLS OUT," QUOTE, "'IMPROVED ACCURACY'
10:06AM 6 WHEN TALKING ABOUT REDUCTION OF HUMAN ERROR THROUGH
10:06AM 7 AUTOMATION."

10:06AM 8 DO YOU SEE THAT?

10:06AM 9 A. YES.

10:06AM 10 Q. AND LET'S LOOK AT PAGE 2 OF THIS EXHIBIT.

10:07AM 11 AND ON PAGE 2, MR. EDLIN, DO YOU SEE THAT MR. RAGO
10:07AM 12 INCLUDES THE TEXT OF THE ARTICLE THAT WAS GOING TO BE PUBLISHED
10:07AM 13 ABOUT THERANOS?

10:07AM 14 A. YES.

10:07AM 15 Q. AND LET'S GO TO PAGE 3 AND ZOOM IN ON THE THIRD PARAGRAPH
10:07AM 16 FROM THE TOP OR THE SECOND FULL PARAGRAPH.

10:07AM 17 AND DO YOU SEE THERE HERE'S THE LANGUAGE ABOUT IMPROVED
10:07AM 18 ACCURACY THAT MR. BLICKMAN WAS REFERENCING IN HIS EMAIL?

10:07AM 19 A. YES.

10:07AM 20 Q. LET'S LOOK AT THE ACTUAL ARTICLE ITSELF.

10:07AM 21 YOUR HONOR, EXHIBIT 1106 IS ALREADY ADMITTED. MAY WE
10:07AM 22 PUBLISH?

10:07AM 23 THE COURT: YES.

10:07AM 24 BY MR. BOSTIC:

10:07AM 25 Q. LET'S LOOK AT THE FIRST INDENTED PARAGRAPH ON PAGE 1.

10:08AM 1 MR. EDLIN, IN THE FINAL PUBLISHED VERSION OF THE ARTICLE,
10:08AM 2 DO YOU SEE THAT IT CLAIMS IN THE MIDDLE OF THIS PARAGRAPH THAT
10:08AM 3 "THERANOS'S PROCESSES ARE FASTER, CHEAPER AND MORE ACCURATE
10:08AM 4 THAN THE CONVENTIONAL METHODS"?

10:08AM 5 A. I DO.

10:08AM 6 Q. AND LET'S LOOK AT PAGE 2 OF THIS EXHIBIT. ZOOM IN ON THE
10:08AM 7 THIRD PARAGRAPH FROM THE BOTTOM.

10:08AM 8 DO YOU SEE THERE THE ARTICLE READS, "ANOTHER THERANOS
10:08AM 9 ADVANCE IS ITS TESTING'S ACCURACY"?

10:08AM 10 A. YES.

10:08AM 11 Q. YOU CAN PUT THAT ASIDE.

10:08AM 12 I HAVE ANOTHER DOCUMENT FOR YOU TO REVIEW.

10:09AM 13 MAY I APPROACH, YOUR HONOR?

10:09AM 14 THE COURT: YES.

10:09AM 15 BY MR. BOSTIC:

10:09AM 16 Q. MR. EDLIN, DO YOU HAVE WHAT HAS BEEN MARKED AS
10:09AM 17 EXHIBIT 5801 IN FRONT OF YOU?

10:09AM 18 A. YES.

10:09AM 19 Q. AND IS 5801 AN EMAIL FROM MR. BLICKMAN TO THE SAME GROUP
10:09AM 20 OF PEOPLE THAT WE WERE JUST LOOKING AT, MS. HOLMES, CC'ING
10:09AM 21 MR. BALWANI, CHRISTIAN HOLMES, AND YOURSELF?

10:09AM 22 A. YES.

10:09AM 23 Q. AND DOES IT RELATE TO THE CONTENT OF ANOTHER NEWS ARTICLE
10:09AM 24 PUBLISHED ABOUT THERANOS?

10:09AM 25 A. IT RELATES TO A MAGAZINE ARTICLE.

10:09AM 1 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 5801.

10:10AM 2 MS. WALSH: YOUR HONOR, NO OBJECTION.

10:10AM 3 THE PARTIES HAVE STIPULATED THAT THE "WIRED" MAGAZINE WAS

10:10AM 4 PUBLISHED ONLINE ON FEBRUARY 18TH, 2014.

10:10AM 5 THE COURT: ALL RIGHT. THANK YOU.

10:10AM 6 IT'S ADMITTED, AND IT MAY BE PUBLISHED.

10:10AM 7 (GOVERNMENT'S EXHIBIT 5801 WAS RECEIVED IN EVIDENCE.)

10:10AM 8 BY MR. BOSTIC:

10:10AM 9 Q. OKAY. SO LET'S ZOOM IN FIRST ON THE EMAIL ITSELF.

10:10AM 10 MR. EDLIN, ARE WE LOOKING AT, AGAIN, AN EMAIL FROM

10:10AM 11 FEBRUARY 18TH, 2014, WITH THE SUBJECT "WIRED" ARTICLE?

10:10AM 12 A. YES.

10:10AM 13 Q. AND WAS THAT EMAIL SENT TO MR. BALWANI, AMONG OTHERS?

10:10AM 14 A. YES.

10:10AM 15 Q. LET'S GO TO PAGE 2 OF THIS EXHIBIT. LET'S SEE IF WE CAN

10:10AM 16 ZOOM IN ON THAT TEXT. WE MAY NEED TO SWITCH VERSIONS OR FIGURE

10:10AM 17 OUT SOMETHING ELSE, BUT LET'S SEE HOW READABLE IT IS.

10:11AM 18 MR. EDLIN, CAN YOU MAKE OUT THIS TEXT ON THE SCREEN?

10:11AM 19 A. I THINK I CAN.

10:11AM 20 Q. DO YOU SEE TOWARDS THE BOTTOM OF THE SELECTION THERE

10:11AM 21 THERE'S A LINE THAT SAYS, "INSTEAD OF VIALS OF BLOOD, ONE FOR

10:11AM 22 EVERY TEST NEEDED, THERANOS REQUIRES ONLY A PINPRICK AND A DROP

10:11AM 23 OF BLOOD."

10:11AM 24 DO YOU SEE THAT?

10:11AM 25 A. YES.

10:11AM 1 Q. IT THEN SAYS, "WITH THAT, THEY CAN PERFORM HUNDREDS OF
10:11AM 2 TESTS, FROM STANDARD CHOLESTEROL CHECKS TO SOPHISTICATED," AND
10:11AM 3 THEN LET'S TURN THE PAGE, AND ZOOM IN ON THE TOP LEFT, "TO
10:11AM 4 SOPHISTICATED GENETIC ANALYSES."

10:11AM 5 DO YOU SEE THAT?

10:11AM 6 A. YES.

10:11AM 7 Q. AND IT THEN SAYS, "THE RESULTS ARE FASTER, MORE ACCURATE,
10:11AM 8 AND FAR CHEAPER THAN CONVENTIONAL METHODS."

10:12AM 9 DO YOU SEE THAT?

10:12AM 10 A. YES.

10:12AM 11 Q. OKAY. WE CAN SET THAT ASIDE. THANK YOU.

10:12AM 12 DID YOUR WORK AT THERANOS INVOLVE ANY INVOLVEMENT IN
10:12AM 13 PREPARING MATERIALS OR PRESENTATIONS THAT WOULD GO TO POTENTIAL
10:12AM 14 INVESTORS IN THE COMPANY?

10:12AM 15 A. MY WORK WAS MOSTLY RELATED TO COMPILING THOSE MATERIALS,
10:12AM 16 YES.

10:12AM 17 Q. AND DESCRIBE WHAT WAS INVOLVED IN THAT? WHAT DID YOU
10:12AM 18 ACTUALLY DO?

10:12AM 19 A. WITH REGARD TO THAT PROCESS, ELIZABETH WOULD NOTIFY
10:12AM 20 SOMETIMES A GROUP OF PEOPLE, INCLUDING ME, THAT BINDERS SHOULD
10:12AM 21 BE PREPARED FOR CERTAIN INVESTORS.

10:12AM 22 AND I WORKED WITH A GROUP OF PEOPLE TO PRINT OUT SOME OF
10:12AM 23 THOSE DOCUMENTS, IN SOME INSTANCES UPDATE CERTAIN SECTIONS WITH
10:13AM 24 NEW NEWS OR RECENT DEVELOPMENTS WITH BUSINESS PARTNERS, PRINT
10:13AM 25 OUT THE MATERIALS, PHYSICALLY PUT THEM INTO A BINDER, AND THEN

10:13AM 1 MAIL THEM OUT.

10:13AM 2 Q. AND WHEN IT CAME TO THE CONTENT OF THOSE MATERIALS THAT
10:13AM 3 WERE GOING TO INVESTORS, SAME QUESTION AS BEFORE, WERE YOU KIND
10:13AM 4 OF EXERCISING YOUR OWN JUDGMENT IN DECIDING WHAT SHOULD BE IN
10:13AM 5 THERE, WHAT IT SHOULD SAY?

10:13AM 6 A. NO. ALL OF THE MATERIALS WERE INCLUDED BASED ON THE
10:13AM 7 PRE-APPROVED CHECKLIST THAT WAS REVIEWED AND APPROVED BY
10:13AM 8 ELIZABETH.

10:13AM 9 Q. AND WAS MR. BALWANI INVOLVED AT ALL IN REVIEWING OR
10:13AM 10 APPROVING THE CONTENT FOR THESE BINDERS?

10:13AM 11 A. HIS ONLY INVOLVEMENT, I RECALL IN SOME INSTANCES WHERE
10:13AM 12 THERE WAS A FINANCIAL SECTION, ELIZABETH TOLD ME TO GO TO SUNNY
10:13AM 13 TO GET CERTAIN MATERIALS AND THEN PUT THEM INTO THE BINDER.

10:14AM 14 Q. AND WERE THESE MATERIALS EVER IN CONNECTION WITH MEETINGS
10:14AM 15 THAT WOULD TAKE PLACE WITH THESE POTENTIAL INVESTORS IN THE
10:14AM 16 COMPANY?

10:14AM 17 A. I DO RECALL SOME MEETINGS.

10:14AM 18 Q. AND DID THOSE MEETINGS INCLUDE MS. HOLMES, MR. BALWANI, OR
10:14AM 19 BOTH, AS YOU RECALL?

10:14AM 20 A. SOME MEETINGS INCLUDED BOTH. SOME MEETINGS INCLUDED ONE
10:14AM 21 OR THE OTHER.

10:14AM 22 Q. LET ME ASK YOU TO LOOK AT TAB 1940 IN THE BINDER IN FRONT
10:14AM 23 OF YOU, PLEASE.

10:15AM 24 AND DO YOU HAVE 1940?

10:15AM 25 A. YES.

10:15AM 1 Q. THIS IS AN EMAIL FROM YOU ON SEPTEMBER 16TH, 2014; IS THAT
10:15AM 2 RIGHT?

10:15AM 3 A. YES.

10:15AM 4 Q. AND DOES IT RELATE TO YOUR WORK WITH MS. HOLMES INVOLVING
10:15AM 5 THE CONTENT OF INVESTMENT MATERIALS BINDERS?

10:15AM 6 A. YES.

10:15AM 7 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 1940.

10:15AM 8 MS. WALSH: NO OBJECTION.

10:15AM 9 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

10:15AM 10 (GOVERNMENT'S EXHIBIT 1940 WAS RECEIVED IN EVIDENCE.)

10:15AM 11 BY MR. BOSTIC:

10:15AM 12 Q. MR. EDLIN, DO YOU SEE THE EMAIL NOW ON THE SCREEN FROM
10:15AM 13 SEPTEMBER OF 2014?

10:15AM 14 A. YES.

10:15AM 15 Q. AND DO YOU RECALL THE APPROXIMATE TIMEFRAME DURING WHICH
10:15AM 16 YOU WERE WORKING ON BINDERS FOR THE COMPANY? WAS IT THROUGHOUT
10:15AM 17 THE ENTIRE TIME OR A NARROWER TIME?

10:15AM 18 A. IT WAS NOT THE ENTIRE TIME. THERE WAS A NARROW TIME.

10:15AM 19 Q. AND WAS 2014 PART OF THAT TIMEFRAME?

10:16AM 20 A. YES.

10:16AM 21 Q. CAN YOU DESCRIBE THE PURPOSE OF THE EMAIL THAT YOU SENT IN
10:16AM 22 SEPTEMBER OF 2014 THAT WE'RE LOOKING AT?

10:16AM 23 A. THIS EMAIL IS IN RESPONSE TO AN EMAIL REQUEST FROM
10:16AM 24 ELIZABETH WHO ASKED TO SEE THE CONTENTS OF THE TWO BINDERS THAT
10:16AM 25 WERE BEING PREPARED COMPARED TO OTHER BINDERS THAT WERE SENT

10:16AM 1 PREVIOUSLY.

10:16AM 2 Q. AND WHAT IS THE -- WHAT ARE YOU GENERALLY DESCRIBING IN

10:16AM 3 YOUR RESPONSE TO THAT EMAIL?

10:16AM 4 A. IN THIS EMAIL I'M OUTLINING THE CONTENTS OF BOTH

10:17AM 5 INVESTMENT BINDERS.

10:17AM 6 Q. AND DID THE BINDERS THAT YOU PREPARED FOR POTENTIAL

10:17AM 7 INVESTORS EVER INCLUDE SLIDE PRESENTATIONS ABOUT THERANOS?

10:17AM 8 A. YES.

10:17AM 9 Q. DID YOU PREPARE BINDERS WITH SLIDE PRESENTATIONS ON

10:17AM 10 MULTIPLE OCCASIONS?

10:17AM 11 A. YES.

10:17AM 12 Q. CAN I ASK YOU TO LOOK AT TAB 4869 IN YOUR BINDER.

10:17AM 13 LET ME KNOW WHEN YOU HAVE THAT IN FRONT OF YOU.

10:17AM 14 A. I DO.

10:17AM 15 Q. DO YOU RECALL A TIME WHEN SOMEONE NAMED RUPERT MURDOCH WAS

10:17AM 16 CONSIDERING AN INVESTMENT IN THERANOS?

10:17AM 17 A. YES.

10:17AM 18 Q. AND DO YOU REMEMBER APPROXIMATELY WHEN THAT WAS?

10:18AM 19 A. I DON'T REMEMBER EXACTLY, BUT I BELIEVE IT WAS WITHIN THAT

10:18AM 20 NARROWER WINDOW THAT WE DISCUSSED.

10:18AM 21 Q. DO YOU RECALL HAVING ANY ROLE IN CONNECTION WITH

10:18AM 22 MR. MURDOCH'S CONSIDERATION OF A POSSIBLE INVESTMENT?

10:18AM 23 A. I RECALL -- CAN YOU REPEAT THE QUESTION?

10:18AM 24 Q. SURE.

10:18AM 25 DID YOU HAVE ANY ROLE IN CONNECTION WITH HIS CONSIDERATION

10:18AM 1 OF AN INVESTMENT? FOR EXAMPLE, WOULD YOU HAVE BEEN PREPARING
10:18AM 2 MATERIALS FOR HIS REVIEW AT THAT TIME?

10:18AM 3 A. I BELIEVE I DID.

10:18AM 4 Q. OKAY. AT TAB 4869, DO YOU RECOGNIZE THE DOCUMENT THAT IS
10:18AM 5 INCLUDED THERE?

10:18AM 6 A. YES.

10:18AM 7 Q. AND WHAT IS THAT?

10:18AM 8 A. THIS IS ONE OF THE SLIDE PRESENTATIONS THAT WAS INCLUDED
10:18AM 9 IN THE INVESTMENT BINDERS, AND THIS IS A GENERAL OVERVIEW OF
10:19AM 10 THE COMPANY.

10:19AM 11 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS
10:19AM 12 5869 -- I'M SORRY, 4869.

10:19AM 13 MS. WALSH: NO OBJECTION.

10:19AM 14 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

10:19AM 15 (GOVERNMENT'S EXHIBIT 4869 WAS RECEIVED IN EVIDENCE.)

10:19AM 16 BY MR. BOSTIC:

10:19AM 17 Q. SO, MR. EDLIN, BEGINNING WITH PAGE 3 HERE -- ACTUALLY,
10:19AM 18 LET'S GO BACK TO -- LET'S GO TO PAGE 1 FOR A MOMENT TO THE
10:19AM 19 TITLE PAGE.

10:19AM 20 AND DO YOU SEE THAT THIS WAS PART OF A CONFIDENTIAL
10:19AM 21 INVESTMENT MATERIALS FOR RUPERT MURDOCH WITH THE THERANOS LOGO
10:19AM 22 AT THE TOP?

10:19AM 23 A. YES.

10:19AM 24 Q. AND LET'S GO TO THE NEXT PAGE, PLEASE.

10:19AM 25 AND DO YOU SEE THE TITLE HERE IS THERANOS CONFIDENTIAL

10:19AM 1

OVERVIEW?

10:19AM 2

A. YES.

10:19AM 3

Q. AND LOOKING AT THE SLIDES THAT COME AFTER THIS, WAS THIS

10:20AM 4

PRESENTATION SHARED JUST WITH MR. MURDOCH OR ARE YOU AWARE OF

10:20AM 5

IT BEING SENT TO OTHER INVESTORS?

10:20AM 6

A. I'M NOT AWARE OF THIS PRESENTATION BEING SHARED WITH OTHER

10:20AM 7

INVESTORS.

10:20AM 8

Q. HOW ABOUT SIMILAR SLIDE PRESENTATIONS WITH SOME OF THE

10:20AM 9

SAME CONTENT, ARE YOU AWARE OF THAT BEING SHARED WITH ANY OTHER

10:20AM 10

INVESTORS?

10:20AM 11

A. YES.

10:20AM 12

Q. LET'S GO TO PAGE 3, PLEASE. LET'S ZOOM IN ON THAT TEXT.

10:20AM 13

AND DO YOU SEE HERE IN THIS PRESENTATION FOR AN INVESTOR

10:20AM 14

THERE'S LANGUAGE THAT SAYS, "THERANOS'S PROPRIETARY, PATENTED

10:20AM 15

TECHNOLOGY RUNS COMPREHENSIVE BLOOD TESTS FROM A FINGERSTICK

10:20AM 16

AND TESTS FROM MICRO-SAMPLES OF OTHER MATRICES."

10:20AM 17

DO YOU SEE THAT?

10:20AM 18

A. YES.

10:20AM 19

Q. AND IT THEN SAYS, "AND GENERATES SIGNIFICANTLY HIGHER

10:20AM 20

INTEGRITY DATA THAN CURRENTLY POSSIBLE."

10:20AM 21

DO YOU SEE THAT?

10:20AM 22

A. YES.

10:20AM 23

Q. LET'S GO TO PAGE 15. LET'S LOOK AT THE SECOND TO THE

10:21AM 24

BOTTOM BULLET POINT HERE. THIS IS UNDER A TITLE THAT SAYS COST

10:21AM 25

SAVINGS.

10:21AM 1 DO YOU SEE THAT?

10:21AM 2 A. YES.

10:21AM 3 Q. AND AT THE SECOND TO THE BOTTOM BULLET POINT THE INVESTOR
10:21AM 4 PRESENTATION SAYS, "THE UNPRECEDENTED LACK OF VARIATION FROM
10:21AM 5 SYSTEM TO SYSTEM YIELDS HIGHER INTEGRITY DATA AND LONGITUDINAL
10:21AM 6 TRENDING."

10:21AM 7 DO YOU SEE THAT?

10:21AM 8 A. YES.

10:21AM 9 Q. WHEN YOU WERE WORKING AT THE COMPANY, DID YOU HAVE A BASIS
10:21AM 10 TO KNOW WHETHER THERANOS'S TESTS HAD AN ACTUALLY UNPRECEDENTED
10:21AM 11 LACK OF VARIATION?

10:21AM 12 A. I DID NOT.

10:21AM 13 Q. LET'S LOOK AT PAGE 28 NEXT.

10:22AM 14 DO YOU SEE HERE THERE'S A TITLE "SAME TESTS, A WHOLE NEW
10:22AM 15 APPROACH"?

10:22AM 16 A. YES.

10:22AM 17 Q. AND IT READS BELOW THAT, "THE ACTIONABLE INFORMATION YOU
10:22AM 18 NEED, 1/1,000 THE SIZE OF A TYPICAL BLOOD DRAW."

10:22AM 19 DO YOU SEE THAT?

10:22AM 20 A. YES.

10:22AM 21 Q. AND THERE'S SOME IMAGES BENEATH THAT.

10:22AM 22 COULD YOU TELL US WHAT IS DEPICTED IN THOSE IMAGES?

10:22AM 23 A. THOSE IMAGES ARE OF THE FINGERSTICK PROCESS, AND IT ALSO
10:22AM 24 SHOWS A NANOTAINER.

10:22AM 25 Q. AND WHAT WAS THE NANOTAINER AT THERANOS?

10:22AM 1 A. THE NANOTAINER WAS THE SMALL TUBE THAT THE COMPANY USED TO
10:22AM 2 COLLECT FINGERSTICK SAMPLES.

10:22AM 3 Q. BELOW THOSE IMAGES IT SAYS, "THERANOS RUNS ANY TEST
10:22AM 4 AVAILABLE IN CENTRAL LABORATORIES, AND PROCESSES ALL SAMPLE
10:22AM 5 TYPES."

10:22AM 6 DO YOU SEE THAT?

10:22AM 7 A. YES.

10:22AM 8 Q. AND SKIPPING DOWN TO THE BOTTOM OF THAT SELECTION, DO YOU
10:23AM 9 SEE THERE'S LANGUAGE THAT SAYS, "THERANOS PROVIDES THE HIGHEST
10:23AM 10 LEVEL OF OVERSIGHT, AUTOMATION, AND STANDARDIZATION IN OUR
10:23AM 11 PRE- AND POST-ANALYTIC PROCESSES, ENSURING THE HIGHEST LEVELS
10:23AM 12 OF ACCURACY AND PRECISION"?

10:23AM 13 A. YES.

10:23AM 14 Q. AND DO YOU RECALL BEFORE WHEN WE WERE LOOKING AT A
10:23AM 15 DISCUSSION ABOUT WHETHER THE WEBSITE SHOULD INCLUDE CLAIMS OF
10:23AM 16 HIGHEST LEVELS OF ACCURACY?

10:23AM 17 A. YES.

10:23AM 18 Q. IS THIS THE SAME LANGUAGE APPEARING IN AN INVESTOR
10:23AM 19 PRESENTATION?

10:23AM 20 A. YES.

10:23AM 21 Q. AND WE SEE ONE MORE EXAMPLE OF THAT IF WE GO TO PAGE 30.

10:23AM 22 AND HERE DO YOU SEE CONTENT WITH THE TITLE "A NEW STANDARD
10:23AM 23 IN QUALITY"?

10:23AM 24 A. YES.

10:23AM 25 Q. AND UNDERNEATH THAT THERE'S A SUBHEADING THAT READS, "THE

10:24AM 1 HIGHEST LEVELS OF ACCURACY."

10:24AM 2 DO YOU SEE THAT?

10:24AM 3 A. YES.

10:24AM 4 Q. AND AGAIN, THE INVESTOR PRESENTATION SAYS BELOW THE

10:24AM 5 GRAPHIC, "BY SYSTEMATICALLY CONTROLLING AND STANDARDIZING OUR

10:24AM 6 PROCESSES, THERANOS OFFERS TESTS WITH THE HIGHEST LEVELS OF

10:24AM 7 ACCURACY."

10:24AM 8 DID I READ THAT CORRECTLY?

10:24AM 9 A. YES.

10:24AM 10 Q. OKAY. WE CAN PUT THAT ASIDE. THANK YOU.

10:24AM 11 MR. EDLIN, CAN YOU PLEASE LOOK AT -- ACTUALLY, LET ME HAND

10:24AM 12 YOU ANOTHER DOCUMENT.

10:24AM 13 MAY I APPROACH, YOUR HONOR?

10:24AM 14 THE COURT: YES.

10:24AM 15 FOLKS, IF YOU WANT TO STAND UP AND STRETCH FOR A MOMENT,

10:24AM 16 PLEASE FEEL FREE.

10:25AM 17 (STRETCHING.)

10:25AM 18 BY MR. BOSTIC:

10:25AM 19 Q. MR. EDLIN, DO YOU HAVE AN EXHIBIT IN FRONT OF YOU MARKED

10:25AM 20 1752?

10:25AM 21 A. YES.

10:25AM 22 Q. AND IS IT AN EMAIL FROM MS. HOLMES TO YOU ON JUNE 1ST,

10:25AM 23 2014?

10:25AM 24 A. YES.

10:25AM 25 Q. AND DO YOU SEE THAT THE SUBJECT LINE IS ROGER PARLOFF,

10:25AM 1 AGGREGATED ACTION ITEMS?

10:25AM 2 A. YES.

10:25AM 3 Q. AND DO YOU RECOGNIZE THAT NAME, ROGER PARLOFF?

10:25AM 4 A. YES.

10:25AM 5 Q. AND WHO WAS THAT IN CONNECTION WITH THERANOS?

10:26AM 6 A. HE WAS A JOURNALIST FOR "FORTUNE" MAGAZINE, AND HE WROTE A

10:26AM 7 PIECE ON THERANOS.

10:26AM 8 Q. AND IN THIS EMAIL FROM MS. HOLMES TO YOU, CAN YOU DESCRIBE

10:26AM 9 THE PURPOSE OF THIS EMAIL?

10:26AM 10 A. THE TOP EMAIL OR JUST GENERALLY?

10:26AM 11 Q. GENERALLY THE CHAIN?

10:26AM 12 A. YEAH. THIS REFERS TO AN AGGREGATED LIST OF ACTION ITEMS

10:26AM 13 INCLUDING FOLLOW-UP MATERIALS THAT WERE IN CONNECTION TO THE

10:26AM 14 ARTICLE THAT MR. PARLOFF WAS WRITING, AND MY ROLE WAS TO

10:26AM 15 AGGREGATE ALL OF THE ACTION ITEMS AND ENSURE THAT THE

10:26AM 16 APPROPRIATE PERSONNEL WITHIN THE COMPANY WERE PROVIDING

10:26AM 17 INFORMATION RESPECTIVE TO THEIR ACTION ITEMS.

10:27AM 18 Q. DID YOUR INVOLVEMENT WITH THAT PROCESS GIVE YOU AN

10:27AM 19 UNDERSTANDING AS TO WHO MR. PARLOFF INTERVIEWED IN CONNECTION

10:27AM 20 WITH THE ARTICLE?

10:27AM 21 A. I RECALL THAT HE ONLY INTERVIEWED ELIZABETH.

10:27AM 22 Q. AND THAT'S YOUR RECOLLECTION?

10:27AM 23 A. YES.

10:27AM 24 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 1752.

10:27AM 25 MS. WALSH: NO OBJECTION.

10:27AM 1 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

10:27AM 2 (GOVERNMENT'S EXHIBIT 1752 WAS RECEIVED IN EVIDENCE.)

10:27AM 3 BY MR. BOSTIC:

10:27AM 4 Q. LET'S LOOK AT THE BOTTOM OF PAGE 1, PLEASE.

10:27AM 5 HERE'S AN EMAIL FROM YOU TO MS. HOLMES CC'ING OTHERS WHERE
10:27AM 6 YOU SAY, "HI ELIZABETH,

10:27AM 7 "PLEASE SEE BELOW/ATTACHED FOR THE ROGER PARLOFF ACTION
10:27AM 8 ITEMS LIST."

10:27AM 9 DO YOU SEE THAT?

10:27AM 10 A. YES.

10:27AM 11 Q. AND CAN YOU DESCRIBE WHAT THIS LIST IS THAT WE'RE LOOKING
10:28AM 12 AT IN THE CHART AND WHAT ITS PURPOSE WAS?

10:28AM 13 A. THIS IS THE LIST OF CATEGORIES OF INFORMATION THAT I
10:28AM 14 BELIEVE WERE REFERENCED IN ELIZABETH'S DISCUSSION WITH
10:28AM 15 MR. PARLOFF, AND THIS WAS INFORMATION THAT WAS REQUESTED.

10:28AM 16 SO THIS LIST INCLUDES THE TYPE OF INFORMATION AS WELL AS
10:28AM 17 THE RESOURCE WITHIN THE COMPANY WHO IS TASKED WITH PROVIDING
10:28AM 18 THAT INFORMATION.

10:28AM 19 Q. LET'S ZOOM OUT AND LOOK AT THE TOP OF THIS PAGE.

10:28AM 20 AND THERE WE SEE A MESSAGE FROM MS. HOLMES JUST TO YOU ON
10:28AM 21 JUNE 1ST.

10:28AM 22 AND DO YOU SEE THAT THERE'S AN ATTACHMENT TITLED THERANOS
10:28AM 23 MULTIPLEXED PANEL VALIDATION REPORT SCHERING-PLOUGH?

10:28AM 24 A. YES.

10:28AM 25 Q. WHAT WAS YOUR UNDERSTANDING AT THE TIME AS TO WHY

10:29AM 1 MS. HOLMES WAS SENDING YOU THAT DOCUMENT?

10:29AM 2 MS. WALSH: OBJECTION.

10:29AM 3 THE COURT: SPECULATION.

10:29AM 4 THE WITNESS: I --

10:29AM 5 BY MR. BOSTIC:

10:29AM 6 Q. LET ME ASK YOU A FOUNDATIONAL QUESTION, MR. EDLIN.

10:29AM 7 DO YOU RECALL AROUND THIS TIME CONVERSATIONS WITH

10:29AM 8 MS. HOLMES ABOUT THIS TO DO LIST AND PROVIDING INFORMATION TO

10:29AM 9 MR. PARLOFF?

10:29AM 10 A. YES.

10:29AM 11 Q. DID THOSE DISCUSSIONS INCLUDE REPORTS RELATING TO

10:29AM 12 THERANOS'S WORK WITH PHARMACEUTICAL COMPANIES?

10:29AM 13 A. YES.

10:29AM 14 Q. DID MS. HOLMES GIVE YOU DIRECTION ABOUT WHAT YOU WERE

10:29AM 15 SUPPOSED TO DO WHEN YOU RECEIVED THE REPORT ATTACHED TO THIS

10:29AM 16 EMAIL?

10:29AM 17 A. I DON'T RECALL WHAT THE DIRECTION WAS, BUT I DO RECALL

10:30AM 18 THAT THERE WAS A COLLECTION OF MATERIALS THAT WAS SENT TO

10:30AM 19 MR. PARLOFF AT ONE POINT.

10:30AM 20 Q. LET'S LOOK AT PAGE 7 OF THIS EXHIBIT.

10:30AM 21 MR. EDLIN, ARE WE LOOKING NOW AT THE ATTACHMENT ITSELF,

10:30AM 22 THAT ATTACHMENT TITLED THERANOS MULTIPLEXED VALIDATION REPORT

10:30AM 23 SCHERING-PLOUGH?

10:30AM 24 A. YES.

10:30AM 25 Q. AND IF WE CAN ZOOM IN ON THE TOP OF THE PAGE.

10:30AM 1 DO YOU SEE THAT AT THE TOP OF THE PAGE THERE ARE TWO LOGOS

10:30AM 2 INCLUDED?

10:30AM 3 A. YES.

10:30AM 4 Q. AND ONE IS FOR SCHERING-PLOUGH; IS THAT CORRECT?

10:30AM 5 A. YES.

10:30AM 6 Q. AND THE OTHER IS FOR THERANOS; IS THAT RIGHT?

10:30AM 7 A. YES.

10:30AM 8 Q. DO YOU HAVE ANY KNOWLEDGE ABOUT HOW THE SCHERING-PLOUGH

10:30AM 9 LOGO CAME TO BE ON THIS PARTICULAR DOCUMENT?

10:30AM 10 A. I DO NOT.

10:30AM 11 Q. OKAY. WE CAN SET THAT ASIDE. THANK YOU.

10:31AM 12 MR. EDLIN, DO YOU HAVE A TAB IN YOUR BINDER MARKED 1776?

10:31AM 13 A. I DO.

10:31AM 14 Q. AND DO YOU RECOGNIZE WHAT IS AT 1776?

10:31AM 15 A. YES.

10:31AM 16 Q. AND WHAT IS IT?

10:31AM 17 A. THIS LOOKS TO BE THE "FORTUNE" ARTICLE THAT MR. PARLOFF

10:31AM 18 WROTE.

10:31AM 19 Q. AND IS THE DATE OF THAT ARTICLE JUNE 12TH, 2014?

10:31AM 20 A. YES.

10:31AM 21 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 1776.

10:31AM 22 MS. WALSH: OBJECTION.

10:31AM 23 THE COURT: I'LL SUSTAIN THE OBJECTION AT THIS POINT

10:31AM 24 WITHOUT FOUNDATION.

10:32AM 25 BY MR. BOSTIC:

10:32AM 1 Q. LET ME JUST ASK YOU A COUPLE OF OTHER FOUNDATIONAL

10:32AM 2 QUESTIONS, MR. EDLIN.

10:32AM 3 A. UH-HUH.

10:32AM 4 Q. WHEN THIS ARTICLE WAS PUBLISHED, DO YOU REMEMBER WHETHER
10:32AM 5 YOU REVIEWED THE ARTICLE?

10:32AM 6 A. I REMEMBER READING THE ARTICLE.

10:32AM 7 Q. AND IS WHAT IS AT 1776 A TRUE AND CORRECT COPY OF THE
10:32AM 8 ARTICLE ITSELF?

10:32AM 9 A. IT APPEARS TO BE.

10:32AM 10 Q. OKAY. WE CAN SET THAT ASIDE FOR NOW.

10:32AM 11 I'D LIKE TO SHIFT GEARS AND TALK ABOUT WORK THAT YOU DID
10:32AM 12 AT THERANOS RELATING TO COMMUNICATIONS WITH THE MILITARY.

10:32AM 13 DO YOU RECALL THAT WORK?

10:32AM 14 A. YES.

10:32AM 15 Q. TELL US ABOUT YOUR ROLE THERE? WHAT WAS YOUR JOB IN
10:32AM 16 CONNECTION WITH DEALINGS THAT THERANOS HAD WITH THE MILITARY?

10:32AM 17 A. I SUPPORTED RELATIONSHIPS WITH VARIOUS DIVISIONS OF THE
10:32AM 18 DEPARTMENT OF DEFENSE, AND IN THAT ROLE I HELPED TO FACILITATE
10:33AM 19 COORDINATION AND INFORMATION SHARING RELATED TO A NUMBER OF
10:33AM 20 DIFFERENT PROGRAMS THAT WERE INTENDED TO EVALUATE THE THERANOS
10:33AM 21 TECHNOLOGY COMPARED TO LAB TESTING THAT WAS AVAILABLE TO THE
10:33AM 22 MILITARY AT THE TIME.

10:33AM 23 Q. AND WHAT WAS THE POINT OF THOSE COMPARISONS AS YOU
10:33AM 24 UNDERSTOOD THEM?

10:33AM 25 A. THE COMPARISON WAS TO EVALUATE HOW THERANOS LAB TESTING

10:33AM 1 COMPARED TO TESTING THAT THE MILITARY HAD WITH THE EVENTUAL
10:33AM 2 GOAL OF THE PROGRAM TO USE THERANOS TESTING FOR THE MILITARY.

10:33AM 3 Q. AND IN THAT ROLE WERE YOU IN TOUCH WITH ONE COMPONENT OF
10:33AM 4 THE MILITARY OR MULTIPLE COMPONENTS?

10:33AM 5 A. MULTIPLE COMPONENTS.

10:34AM 6 Q. DO YOU REMEMBER WHAT SOME OF THEM WERE?

10:34AM 7 A. YES. THERE WAS U.S. CENTCOM, SOCOM, AFRICOM, AND THE
10:34AM 8 INSTITUTION OF SURGICAL RESEARCH.

10:34AM 9 Q. AND YOU MENTIONED I THINK SOME ABBREVIATIONS. IT'S OKAY
10:34AM 10 IF YOU CAN'T, BUT ARE YOU ABLE TO EXPAND AND EXPLAIN THOSE FOR
10:34AM 11 US STARTING WITH CENTCOM? WHAT DOES THAT STAND FOR?

10:34AM 12 A. U.S. CENTRAL COMMAND, SPECIAL OPERATIONS COMMAND, AFRICA
10:34AM 13 COMMAND.

10:34AM 14 Q. AND IN THAT ROLE WERE YOU SPEAKING ON BEHALF OF THERANOS
10:34AM 15 OR WERE YOU ACTING AS A GO-BETWEEN FOR SOMEONE ELSE WHO WAS
10:34AM 16 MAKING DECISIONS FOR THE COMPANY?

10:34AM 17 A. I'D SAY THE LATER. ANY SUBSTANTIVE COMMUNICATION THAT I
10:35AM 18 HAD WITH ANY MEMBER, ANY DIVISION WITHIN THE MILITARY WAS BASED
10:35AM 19 ON INFORMATION THAT I HAD DISCUSSED WITH ELIZABETH AND GOT FROM
10:35AM 20 ELIZABETH, AND SOMETIMES THOSE DISCUSSIONS INFORMED EMAIL
10:35AM 21 DRAFTS THAT ARE THEN SENT TO ELIZABETH TO REVIEW AND APPROVE,
10:35AM 22 AND SHE WOULD DO THAT BEFORE I SENT OUT ANY COMMUNICATION BACK
10:35AM 23 TO THE MILITARY.

10:35AM 24 Q. I WANT TO ASK YOU ABOUT SOME OF THOSE CONTACTS, BUT LET ME
10:35AM 25 SKIP TO THE END AND ASK YOU, IN YOUR EXPERIENCE AT THERANOS,

10:35AM 1 DID THE MILITARY EVER ACTUALLY USE A THERANOS DEVICE FOR THE
10:35AM 2 DIAGNOSIS OR TREATMENT OF SOLDIERS?

10:35AM 3 A. NOT TO MY KNOWLEDGE.

10:35AM 4 Q. CAN YOU TURN TO TAB 504 IN YOUR BINDER, PLEASE.

10:36AM 5 AND DO YOU RECOGNIZE WHAT IS AT 504?

10:36AM 6 A. YES.

10:36AM 7 Q. AND IS IT AN EMAIL FROM JANUARY 2012 FROM YOU TO A
10:36AM 8 REPRESENTATIVE OF THE U.S. MILITARY?

10:36AM 9 A. YES.

10:36AM 10 Q. AND DOES IT INCLUDE AN ATTACHMENT PRESENTING INFORMATION
10:36AM 11 ABOUT THERANOS?

10:36AM 12 A. YES.

10:36AM 13 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 504.

10:36AM 14 MS. WALSH: OTHER THAN OUR DISCUSSION THIS MORNING,
10:36AM 15 NO OBJECTION.

10:36AM 16 THE COURT: THANK YOU. IT'S ADMITTED, 504 IS
10:36AM 17 ADMITTED, AND IT MAY BE PUBLISHED.

10:36AM 18 MR. BOSTIC: THANK YOU, YOUR HONOR.

10:36AM 19 (GOVERNMENT'S EXHIBIT 504 WAS RECEIVED IN EVIDENCE.)

10:36AM 20 MR. BOSTIC: LET'S START WITH PAGE 1.

10:36AM 21 LET'S ZOOM IN ON THE MIDDLE OF THE PAGE, FIRST, TO SEE
10:37AM 22 MAJOR COOK'S EMAIL. ACTUALLY STARTING A LITTLE LOWER DOWN.

10:37AM 23 PERFECT. THANK YOU.

10:37AM 24 Q. MR. EDLIN, WHO WAS MAJOR STEPHEN COOK, IF YOU REMEMBER?

10:37AM 25 A. MAJOR STEPHEN COOK WAS A PART OF SPECIAL OPERATIONS

10:37AM 1

COMMAND.

10:37AM 2

Q. AND IN HIS EMAIL TO YOU, IN THAT SECOND SENTENCE HE SAYS,

10:37AM 3

"AS YOU KNOW, WE'RE LOOKING TO EVALUATE YOUR SYSTEM TO

10:37AM 4

DETERMINE ITS UTILITY ACROSS THE OPERATIONS AND ENVIRONMENTS IN

10:37AM 5

WHICH WE'D LIKE TO DEPLOY IT."

10:37AM 6

DO YOU SEE THAT?

10:37AM 7

A. YES.

10:37AM 8

Q. AND IT SAYS, "IN ORDER TO DO SO, WE'D LIKE TO CONDUCT AN

10:37AM 9

ASSESSMENT PERIOD AFTER WHICH WE'D LIKELY MOVE FORWARD WITH A

10:37AM 10

12-MONTH RENEWABLE SERVICE CONTRACT."

10:37AM 11

DO YOU SEE THAT?

10:37AM 12

A. YES.

10:37AM 13

Q. AND THEN SKIPPING TWO PARAGRAPHS DOWN HE PROPOSES THREE

10:38AM 14

DEVICES, GPS DISABLED.

10:38AM 15

DO YOU SEE THAT?

10:38AM 16

A. YES.

10:38AM 17

Q. AND ACTUALLY ONE ABOVE THAT. IT SAYS, "RUNNING UP TO 400

10:38AM 18

ASSAYS EACH MONTH."

10:38AM 19

DO YOU SEE THAT?

10:38AM 20

A. YES.

10:38AM 21

Q. AND THOSE ASSAYS INCLUDE "COMPLETE BLOOD COUNT."

10:38AM 22

DO YOU SEE THAT?

10:38AM 23

A. YES.

10:38AM 24

Q. DO YOU KNOW WHETHER THE EDISON DEVICE USED IN THE CLINICAL

10:38AM 25

LAB WAS ABLE TO RUN A COMPLETE BLOOD COUNT OR NOT?

10:38AM 1 A. I HAVE LEARNED THAT IT WAS NOT ABLE TO.

10:38AM 2 MS. WALSH: OBJECTION.

10:38AM 3 THE COURT: SUSTAINED.

10:38AM 4 THE LAST ANSWER IS STRICKEN, LADIES AND GENTLEMEN.

10:38AM 5 BY MR. BOSTIC:

10:38AM 6 Q. MR. EDLIN, DID YOU KNOW DURING YOUR TIME AT THE COMPANY

10:38AM 7 WHETHER THE EDISON DEVICE WAS ABLE TO RUN A COMPLETE BLOOD

10:38AM 8 COUNT OR NOT?

10:38AM 9 A. YES, THERE WAS A POINT IN TIME WHERE I LEARNED THAT.

10:39AM 10 Q. AND HOW DID YOU COME TO LEARN THAT WHILE YOU WERE AT THE

10:39AM 11 COMPANY?

10:39AM 12 A. I CAME TO LEARN THAT, I BELIEVE IN CONNECTION WITH ONE OF

10:39AM 13 THE PROGRAMS WITH THE MILITARY WHEN WE NEEDED TO -- WHEN A

10:39AM 14 DECISION WAS MADE ON WHICH DEVICES WERE GOING TO BE USED FOR

10:39AM 15 THE PROGRAM.

10:39AM 16 Q. OKAY. WE'LL CIRCLE BACK TO THAT IN A COUPLE MINUTES.

10:39AM 17 A. OKAY.

10:39AM 18 Q. FOR NOW LET ME ASK YOU, IN JANUARY OF 2012, DURING THE

10:39AM 19 TIME OF THIS EMAIL, DID YOU KNOW WHETHER THE THERANOS EDISON

10:39AM 20 COULD PERFORM A COMPLETE BLOOD COUNT?

10:39AM 21 A. I DON'T BELIEVE SO.

10:39AM 22 Q. OKAY. LET'S LOOK AT THE ATTACHMENT TO THIS EMAIL, AND

10:39AM 23 THAT IS ON PAGE 5 OF THE EXHIBIT.

10:40AM 24 AND CAN YOU TELL US WHAT WE'RE LOOKING AT HERE BEGINNING

10:40AM 25 ON PAGE 5?

10:40AM 1 A. THIS LOOKS TO BE A BACKGROUND AND OVERVIEW DOCUMENT ABOUT
10:40AM 2 THERANOS.

10:40AM 3 Q. AND WHERE DID THIS CONTENT COME FROM?

10:40AM 4 A. I DON'T RECALL WHERE ALL OF THE CONTENT CAME FROM.

10:40AM 5 I RECALL THAT A DOCUMENT EXISTED, BUT I DON'T KNOW WHERE
10:40AM 6 THE INFORMATION CAME FROM.

10:40AM 7 Q. DID THIS INFORMATION COME FROM WITHIN THERANOS, OR DID IT
10:40AM 8 COME FROM THE MILITARY, OR A THIRD SOURCE, IF YOU KNOW?

10:40AM 9 A. THIS WAS A THERANOS-PRODUCED DOCUMENT.

10:40AM 10 Q. MS. HOLMES IS CC'D ON YOUR EMAIL TO MAJOR COOK ATTACHING
10:40AM 11 THIS MEMO.

10:41AM 12 DO YOU REMEMBER WHETHER MS. HOLMES WOULD HAVE REVIEWED AND
10:41AM 13 APPROVED THIS MEMO BEFORE IT WAS SENT TO THE MILITARY?

10:41AM 14 A. I RECALL THAT SHE DID.

10:41AM 15 Q. LET'S LOOK AT SOME OF THE CONTENT HERE. LET'S ZOOM IN ON
10:41AM 16 THE TOP THIRD OF THE PAGE.

10:41AM 17 DO YOU SEE UNDER BACKGROUND THERE'S A CLAIM THAT SAYS,
10:41AM 18 "THERANOS HAS CREATED A POINT-OF-SERVICE LABORATORY
10:41AM 19 INFRASTRUCTURE THAT GENERATES REAL-TIME DATA FROM A FINGERSTICK
10:41AM 20 OF BLOOD OR OTHER MICRO-VOLUMES OF DIFFERENT SAMPLE TYPES
10:41AM 21 DELIVERING HIGHER QUALITY DATA THAN PREVIOUSLY POSSIBLE."

10:41AM 22 A. YES.

10:41AM 23 Q. AND IT THEN SAYS, "THIS TECHNOLOGY IS AN INDUSTRY FIRST."

10:41AM 24 DO YOU SEE THAT?

10:41AM 25 A. YES.

10:41AM 1 Q. AND THE FIRST BULLET POINT UNDERNEATH SAYS, "EACH THERANOS
10:41AM 2 DEVICE CAN RUN EVERY TEST CURRENTLY AVAILABLE THROUGH THE
10:41AM 3 TRADITIONAL CENTRALIZED OR HOSPITAL LABORATORY INFRASTRUCTURE."

10:41AM 4 DO YOU SEE THAT?

10:41AM 5 A. YES.

10:41AM 6 Q. AND DID YOU KNOW AT THE TIME WHETHER THAT STATEMENT WAS
10:42AM 7 TRUE OR FALSE?

10:42AM 8 A. I DIDN'T KNOW, BUT I HAD NO REASON TO DOUBT ITS ACCURACY.

10:42AM 9 Q. LOOKING AT THE SECOND TO THE BOTTOM BULLET POINT IN THIS
10:42AM 10 COLLECTION, THERE'S A CLAIM THAT READS, "THERANOS MANUFACTURES
10:42AM 11 ALL OF ITS TECHNOLOGIES AND SYSTEMS WITHIN THE UNITED STATES."

10:42AM 12 DO YOU SEE THAT?

10:42AM 13 A. YES.

10:42AM 14 Q. CAN YOU REMIND US WHEN YOU BECAME AWARE OF THE COMPANY'S
10:42AM 15 RELIANCE ON THIRD PARTY DEVICES?

10:42AM 16 A. CAN YOU SPECIFY THE PREVIOUS QUESTION.

10:42AM 17 Q. SURE.

10:42AM 18 DO YOU RECALL YOUR PREVIOUS TESTIMONY THAT WHEN YOU
10:42AM 19 LEARNED THAT THE COMPANY WAS USING NON-THERANOS DEVICES FOR
10:43AM 20 SOME OF ITS TESTS?

10:43AM 21 A. I LEARNED THAT THE COMPANY WAS USING THIRD PARTY DEVICES
10:43AM 22 FOR FINGERSTICK TESTS IN 2016. I DON'T RECALL EXACTLY WHEN --
10:43AM 23 I DON'T RECALL EXACTLY.

10:43AM 24 Q. OKAY. AND THIS DOCUMENT ONLY MENTIONS FINGERSTICK TESTING
10:43AM 25 OF BLOOD; IS THAT CORRECT?

10:43AM 1

A. YES.

10:43AM 2

Q. LET ME ASK IT A DIFFERENT WAY.

10:43AM 3

DO YOU SEE ANY MENTION OF VEIN SAMPLES, OR VENIPUNCTURE,

10:43AM 4

IN THIS DOCUMENT?

10:43AM 5

A. WELL, AT THE TOP IT SAYS FINGERSTICK OR OTHER

10:43AM 6

MICRO-VOLUMES OF DIFFERENT SAMPLE TYPES.

10:43AM 7

Q. OKAY.

10:43AM 8

A. SO I DON'T SEE A MENTION OF VENOUS HERE.

10:43AM 9

Q. LET'S TURN THE PAGE, AND LET'S ZOOM IN UNDER MILITARY

10:44AM 10

APPLICATIONS UNDER PROJECT SCOPE.

10:44AM 11

DO YOU SEE UNDER MEDEVAC AT THE TOP, "THE ABILITY TO TEST

10:44AM 12

AND TRIAGE WOUNDED SOLDIERS AT THE TIME OF IMPACT AND DURING

10:44AM 13

EVALUATION (E.G. IN A HELICOPTER) ."

10:44AM 14

DO YOU SEE THAT?

10:44AM 15

A. YES.

10:44AM 16

Q. AND TO YOUR KNOWLEDGE WAS ANY THERANOS DEVICE EVER USED IN

10:44AM 17

THIS WAY, IN OTHER WORDS, TO TEST SOLDIERS ON A MEDICAL

10:44AM 18

HELICOPTER?

10:44AM 19

A. NO.

10:44AM 20

Q. UNDER TELECOMMUNICATIONS THAT LAST SENTENCE SAYS,

10:44AM 21

"THERANOS FIELD SYSTEMS' RUGGED, MODULAR DESIGN WITH INTEGRATED

10:44AM 22

COMMUNICATIONS CAPABILITY AND GPS ENABLE FULL OPERABILITY IN

10:45AM 23

THE FIELD."

10:45AM 24

DO YOU SEE THAT?

10:45AM 25

A. YES.

10:45AM 1 Q. IN YOUR EXPERIENCE WITH THERANOS DEVICES, DID YOU FIND
10:45AM 2 THEM TO BE RUGGED?

10:45AM 3 A. NO.

10:45AM 4 Q. WHAT MAKES YOU SAY THAT?

10:45AM 5 A. IN MY EXPERIENCE, THE DEVICES HAD TO BE PLUGGED INTO A
10:45AM 6 POWER SOURCE AND KEPT IN A STATIONARY POSITION, AND THEY
10:45AM 7 COULDN'T BE MOVED WHEN THE DEVICE WAS OPERATING.

10:45AM 8 Q. IN CONNECTION WITH YOUR WORK WITH THE MILITARY, DID YOU
10:45AM 9 EVER SHIP THERANOS DEVICES TO THE MILITARY?

10:45AM 10 A. YES.

10:45AM 11 Q. WHEN DO YOU RECALL DOING THAT?

10:45AM 12 A. I RECALL THAT DEVICES WERE SHIPPED TO SOCOM, I BELIEVE IT
10:45AM 13 WAS 2014, AND DEVICES WERE ALSO SENT TO AFRICOM.

10:45AM 14 Q. OKAY. LET ME ASK YOU ABOUT SOCOM FIRST.

10:45AM 15 WE CAN TAKE THIS EXHIBIT DOWN. THANK YOU, MS. WACHS.

10:46AM 16 WHEN IT CAME TO SHIPPING THE DEVICES TO SOCOM, WAS THAT
10:46AM 17 SOMEWHERE WITHIN THE U.S. OR SOMEWHERE OVERSEAS?

10:46AM 18 A. IT WAS IN KENTUCKY.

10:46AM 19 Q. AND WHAT WAS THE PURPOSE OF SHIPPING DEVICES TO SPECIAL
10:46AM 20 OPERATIONS COMMAND IN KENTUCKY?

10:46AM 21 A. THEY WERE SHIPPED IN CONNECTION TO THE EVALUATIVE PROGRAMS
10:46AM 22 THAT WE WERE PLANNING WITH THEM.

10:46AM 23 Q. AND WHEN YOU SAY, "EVALUATIVE PROGRAMS," WHAT DOES THAT
10:46AM 24 MEAN?

10:46AM 25 A. THAT REFERS TO THE EVALUATION OF THERANOS DEVICES COMPARED

10:46AM 1 TO THE TESTING AVAILABLE TO THE MILITARY.

10:46AM 2 Q. AND DO YOU REMEMBER HOW MANY DEVICES APPROXIMATELY WERE
10:46AM 3 SHIPPED TO KENTUCKY AT THAT TIME?

10:46AM 4 A. I BELIEVE IT WAS THREE.

10:46AM 5 Q. AND DO YOU KNOW WHETHER SOCOM EVER ACTUALLY USED THOSE
10:46AM 6 DEVICES TO RUN ASSAYS AND EVALUATE PERFORMANCE?

10:46AM 7 A. I DON'T BELIEVE THEY DID.

10:46AM 8 Q. YOU MENTIONED EARLIER THE ARMY INSTITUTE OF SURGICAL
10:47AM 9 RESEARCH; IS THAT RIGHT?

10:47AM 10 A. YES.

10:47AM 11 Q. AND CAN YOU DESCRIBE THERANOS'S CONTACTS WITH THAT
10:47AM 12 COMPONENT?

10:47AM 13 A. I RECALL HAVING TWO MAIN CONTACTS AND THAT PROGRAM WAS FOR
10:47AM 14 A BURN STUDY IN CONNECTION TO EVALUATING SEPSIS WITH BURN
10:47AM 15 PATIENTS.

10:47AM 16 Q. AND DID THAT STUDY ACTUALLY TAKE PLACE?

10:47AM 17 A. YES.

10:47AM 18 Q. AND WAS THIS THE MILITARY CONNECTION INVOLVING THERANOS
10:47AM 19 THAT GOT THE FURTHEST ALONG?

10:47AM 20 A. I THINK IT'S FAIR TO SAY THAT.

10:48AM 21 Q. NONETHELESS, DID THAT STUDY INVOLVE THE ACTUAL USE OF THE
10:48AM 22 THERANOS DEVICE TO DIAGNOSE AND TREAT SOLDIERS TO YOUR
10:48AM 23 KNOWLEDGE?

10:48AM 24 MS. WALSH: OBJECTION. LEADING.

10:48AM 25 THE COURT: OVERRULED.

10:48AM 1 THE WITNESS: TO MY KNOWLEDGE, NO.

10:48AM 2 BY MR. BOSTIC:

10:48AM 3 Q. LET ME DIRECT YOUR ATTENTION TO TAB 588 IN THE BINDER IN
10:48AM 4 FRONT OF YOU.

10:48AM 5 AND DO YOU SEE AT 588 AN EMAIL CHAIN BETWEEN
10:48AM 6 COLONEL ERIN EDGAR AND ELIZABETH HOLMES?

10:48AM 7 A. YES.

10:48AM 8 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS
10:48AM 9 EXHIBIT 588.

10:48AM 10 MS. WALSH: NO OBJECTION.

10:48AM 11 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

10:48AM 12 (GOVERNMENT'S EXHIBIT 588 WAS RECEIVED IN EVIDENCE.)

10:48AM 13 MR. BOSTIC: AND LET'S ZOOM IN ON THE FIRST EMAIL,
10:49AM 14 THE BOTTOM EMAIL.

10:49AM 15 Q. DURING YOUR TIME AT THERANOS, DID YOU HAVE CONTACT WITH
10:49AM 16 SOMEBODY NAMED COLONEL ERIN EDGAR?

10:49AM 17 A. I DON'T BELIEVE I HAD MUCH CONTACT WITH HIM, BUT I BELIEVE
10:49AM 18 I'M AWARE THAT HE WAS INVOLVED IN OUR PROGRAM, IN THE THERANOS
10:49AM 19 PROGRAM WITH CENTCOM.

10:49AM 20 Q. OKAY. AND THAT WAS GOING TO BE MY NEXT QUESTION.

10:49AM 21 WHICH COMPONENT OF THE MILITARY WAS HE FAMILIAR WITH? YOU
10:49AM 22 SAID CENTCOM?

10:49AM 23 A. YES.

10:49AM 24 Q. AROUND THIS TIME IN APRIL OF 2012, WHAT WAS CENTCOM TRYING
10:49AM 25 TO DO WITH RESPECT TO THE THERANOS DEVICE?

10:49AM 1 A. CENTCOM WAS INTERESTED IN A SIMILAR TYPE OF EVALUATION OF
10:49AM 2 THE THERANOS TECHNOLOGY COMPARED TO THE TESTING THAT WAS
10:49AM 3 AVAILABLE.

10:49AM 4 Q. AND THIS EMAIL HAS THE SUBJECT LINE THERANOS UPDATE TO
10:50AM 5 GENERAL MATTIS.

10:50AM 6 DO YOU SEE THAT?

10:50AM 7 A. YES.

10:50AM 8 Q. AND HOW WAS GENERAL MATTIS CONNECTED TO THESE
10:50AM 9 COMMUNICATIONS BETWEEN CENTCOM AND THERANOS?

10:50AM 10 A. I'M NOT SURE BEYOND JUST WHAT IS WRITTEN IN THE EMAILS,
10:50AM 11 BUT YEAH.

10:50AM 12 Q. OKAY. THE MENTION IN THIS EMAIL TO THE EFFORT OF GETTING
10:50AM 13 THE ANALYZERS INTO THEATER.

10:50AM 14 DO YOU SEE THAT?

10:50AM 15 A. YES.

10:50AM 16 Q. AROUND THIS TIME, DID THAT RELATE TO USE ON THE
10:50AM 17 BATTLEFIELD TO TREAT SOLDIERS?

10:50AM 18 A. AT THIS TIME, NO. I THINK THAT WAS THE EVENTUAL GOAL IF
10:50AM 19 THE PROGRAM WAS SUCCESSFUL.

10:50AM 20 Q. AND SO WHAT STAGES WERE THINGS AT WITH CENTCOM AT THIS
10:50AM 21 TIME IN APRIL OF 2012?

10:51AM 22 A. AT THIS TIME I WOULD SAY THEY WERE IN THE PLANNING STAGE.

10:51AM 23 Q. LET'S LOOK AT EXHIBIT 1027 TO GET SOME MORE DETAILS ON
10:51AM 24 THAT.

10:51AM 25 AND AT 1027, DO YOU SEE AN EMAIL FROM YOURSELF TO

10:51AM 1 MS. HOLMES WITH THE SUBJECT LINE THERANOS LIMITED OBJECTIVE
10:51AM 2 EXPERIMENT?

10:51AM 3 A. YES.

10:51AM 4 Q. AND DOES THIS RELATE TO CONTINUING EXPLORATION OF POSSIBLE
10:51AM 5 USE BY CENTCOM?

10:51AM 6 A. YES.

10:51AM 7 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 1027.

10:51AM 8 MS. WALSH: NO OBJECTION.

10:51AM 9 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

10:51AM 10 (GOVERNMENT'S EXHIBIT 1027 WAS RECEIVED IN EVIDENCE.)

10:51AM 11 MR. BOSTIC: LET'S START BY ZOOMING IN ON THE MIDDLE
10:52AM 12 OF THE PAGE TO CAPTURE THE EMAIL FROM MARTIN DRAKE.

10:52AM 13 Q. SO, MR. EDLIN, THIS EMAIL IS FROM JULY 24TH, 2013; IS THAT
10:52AM 14 CORRECT?

10:52AM 15 A. YES.

10:52AM 16 Q. AND THE SUBJECT HEADING HERE IS THERANOS LIMITED OBJECTIVE
10:52AM 17 EXPERIMENT.

10:52AM 18 DO YOU RECALL WHAT THAT REFERRED TO? WHAT WAS THE LIMITED
10:52AM 19 OBJECTIVE EXPERIMENT?

10:52AM 20 A. THAT WAS THE NAME OF THE EVALUATION OF THAT PROGRAM.

10:52AM 21 Q. IN THE -- LET'S SEE.

10:52AM 22 IN THIS EMAIL, MARTIN DRAKE SAYS, "I AM A SCIENCE ADVISOR
10:52AM 23 WITH U.S. CENTRAL COMMAND."

10:52AM 24 DO YOU SEE THAT?

10:52AM 25 A. YES.

10:52AM 1 Q. AND IT SAYS, "GENERAL MATTIS CHARGED OUR COMMAND SURGEON
10:52AM 2 AND ME TO CONDUCT AN INVESTIGATION INTO THE COMPARATIVE
10:52AM 3 BENEFITS OF YOUR TECHNOLOGY AND APPROACH OVER LEGACY METHODS
10:53AM 4 AND EQUIPMENT."

10:53AM 5 DO YOU SEE THAT?

10:53AM 6 A. YES.

10:53AM 7 Q. AND IT SAYS, "WE HAVE BEEN UNABLE TO PUSH YOUR EQUIPMENT
10:53AM 8 TO THEATER SO THAT WE COULD CONDUCT A PROPER EXPERIMENT."

10:53AM 9 DO YOU SEE THAT?

10:53AM 10 A. YES.

10:53AM 11 Q. SO THIS IS NOW SUMMER OF 2013.

10:53AM 12 AT THIS POINT HAD THE DEALINGS WITH CENTCOM GOTTEN TO THE
10:53AM 13 POINT WHERE THE MILITARY WAS READY TO USE THERANOS DEVICES TO
10:53AM 14 ACTUALLY TEST AND TREAT SOLDIERS?

10:53AM 15 A. NO.

10:53AM 16 Q. WHY NOT? WHAT STILL NEEDED TO HAPPEN FIRST?

10:53AM 17 A. AT THIS POINT, CENTCOM STILL HAD NOT HAD EXPERIENCE USING
10:53AM 18 THE THERANOS DEVICES AND RUNNING TESTS.

10:54AM 19 Q. LET'S GO BACK TO PAGE 1 OF THIS EXHIBIT, AND LET'S ZOOM IN
10:54AM 20 ON MARTIN DRAKE'S EMAIL ON THIS PAGE.

10:54AM 21 HERE, DO YOU SEE AN EMAIL IN AUGUST OF 2013 THAT READS IN
10:54AM 22 THE SECOND PARAGRAPH, "IN ORDER FOR US TO REQUEST RESOURCES IN
10:54AM 23 FINANCIAL YEAR 2014 TO CONDUCT THIS LOE, WE WILL REQUIRE A FIRM
10:54AM 24 COMMITMENT FROM YOU WHEN THERANOS WILL BE AVAILABLE, IN
10:54AM 25 THEATER, AND READY FOR TEST. PLEASE PICK A DATE IN CALENDAR

10:54AM 1 YEAR 2014 WHEN YOU KNOW BEYOND DOUBT YOU WILL BE READY TO
10:54AM 2 TEST."

10:54AM 3 DO YOU SEE THAT?

10:54AM 4 A. YES.

10:54AM 5 Q. AND AROUND THIS TIME WERE THERE ISSUES WITH THE COMPANY'S
10:54AM 6 READINESS FOR THE TESTS THAT THE MILITARY WANTED TO PERFORM?

10:54AM 7 A. MY UNDERSTANDING AT THIS TIME WAS THAT THE COMPANY WAS
10:54AM 8 STILL IN THE PROCESS OF CUSTOMIZATION FOR THE PROGRAM.

10:54AM 9 Q. AND WHERE DID THAT UNDERSTANDING COME FROM?

10:54AM 10 A. THAT'S WHAT I WAS TOLD BY ELIZABETH AND OTHER SCIENTISTS.

10:55AM 11 Q. LET'S LOOK AT THE TOP EMAIL ON THIS PAGE.

10:55AM 12 HERE'S YOUR RESPONSE TO MARTIN DRAKE'S REQUEST FOR A DATE
10:55AM 13 CERTAIN FOR WHEN THE COMPANY COULD DO THE TEST; CORRECT?

10:55AM 14 A. YES.

10:55AM 15 Q. AND YOU SAY IN THE THIRD PARAGRAPH DOWN, "LOOKING AHEAD TO
10:55AM 16 2014, WE WOULD BE ABLE TO DELIVER ALL OF OUR EQUIPMENT TO
10:55AM 17 THEATER AND BEGIN TESTING BY AUGUST 1ST."

10:55AM 18 DO YOU SEE THAT?

10:55AM 19 A. YES.

10:55AM 20 Q. AND SO IN OTHER WORDS, THE COMPANY NEEDED ANOTHER YEAR TO
10:55AM 21 COMPLETE ITS WORK AND BE READY FOR THAT TESTING?

10:55AM 22 A. THAT'S WHAT I WAS TOLD.

10:55AM 23 Q. WERE YOU STILL AT THE COMPANY IN AUGUST OF 2014?

10:55AM 24 A. YES.

10:55AM 25 Q. AND DID THIS LIMITED OBJECTIVE EXPERIMENT ACTUALLY BEGIN A

10:55AM 1 YEAR LATER, IN AUGUST OF 2014?

10:55AM 2 A. NO.

10:55AM 3 Q. DID THIS LIMITED OBJECTIVE EXPERIMENT EVER TAKE PLACE
10:55AM 4 DURING YOUR TIME AT THE COMPANY?

10:55AM 5 A. NO.

10:55AM 6 Q. OKAY. WE CAN SET THAT EXHIBIT ASIDE.

10:56AM 7 DID YOU EVER TRAVEL TO MILITARY BASES IN CONNECTION WITH
10:56AM 8 YOUR WORK AT THERANOS?

10:56AM 9 A. YES.

10:56AM 10 Q. AND WHAT DO YOU RECALL ABOUT THAT?

10:56AM 11 A. I RECALL TRAVELLING TO THE MACDILL AIRFORCE BASE IN TAMPA
10:56AM 12 FOR A SECURITY TEST ON THE THERANOS DEVICES.

10:56AM 13 Q. AND WHAT DOES "SECURITY TEST" MEAN IN THE CONTEXT OF WHAT
10:56AM 14 THE MILITARY WAS TRYING TO DO WITH THE DEVICES?

10:56AM 15 A. CENTCOM WAS INTERESTED IN PLUGGING IN ONE OF THE THERANOS
10:56AM 16 DEVICES TO ITS SERVER TO UNDERSTAND WHAT ITS VULNERABILITIES
10:56AM 17 WERE FROM A SECURITY PERSPECTIVE.

10:56AM 18 Q. AND DID THAT TEST INVOLVE ANY EVALUATION OF THE ACTUAL
10:56AM 19 PERFORMANCE OF THE MACHINE IN CLINICAL TESTING?

10:56AM 20 A. NO.

10:56AM 21 Q. WE HAVEN'T SPOKEN ABOUT AFRICOM YET.

10:57AM 22 WHAT DO YOU RECALL ABOUT AFRICOM'S EXPLORATION OF POSSIBLE
10:57AM 23 USE OF THE THERANOS DEVICE?

10:57AM 24 A. AFRICOM WAS INTERESTED IN THE VIABILITY OF THERANOS
10:57AM 25 DEVICES IN CERTAIN TEST DEVICES.

10:57AM 1 I RECALL THAT, I BELIEVE, THREE EDISON DEVICES WERE I
10:57AM 2 THINK FIRST SENT TO EUROPE AND THEN FLOWN TO AFRICA TO DO SOME
10:57AM 3 TESTING.

10:57AM 4 Q. AND DO YOU RECALL WHETHER THAT TESTING INCLUDED ACTUAL
10:57AM 5 CLINICAL USE OF THE DEVICES?

10:57AM 6 IN OTHER WORDS, WERE THE DEVICES USED IN AFRICA TO RUN
10:57AM 7 REAL TESTS ON PATIENTS THAT MEDICAL DECISIONS WERE BASED ON?

10:57AM 8 A. NO. FOR THAT PROGRAM, THE POINT OF CONTACT THERE SENT
10:58AM 9 THERANOS PREDETERMINED RESULTS THAT THEY WERE INTERESTED IN
10:58AM 10 SEEING ON THE THERANOS SCREEN, BUT IT'S MY UNDERSTANDING THAT
10:58AM 11 NO CLINICAL TESTS WERE DONE.

10:58AM 12 Q. SO IF THE POINT OF THE TEST WASN'T TO ACTUALLY EVALUATE
10:58AM 13 THE CLINICAL PERFORMANCE OF THE MACHINE, WHAT WAS THE POINT OF
10:58AM 14 THE TEST AS YOU UNDERSTOOD IT?

10:58AM 15 A. I UNDERSTOOD THAT THE POINT OF THE PROGRAM WAS TO EVALUATE
10:58AM 16 HOW THE DEVICES PERFORMED, INCLUDING USABILITY, AND IF THE
10:58AM 17 DEVICES WOULD POWER ON IN CERTAIN TESTING ENVIRONMENTS.

10:58AM 18 Q. SO THINKING ABOUT ALL OF THE CONTACT THAT YOU HAD WITH THE
10:59AM 19 MILITARY AND YOUR KNOWLEDGE OF THE COMPANY'S INVOLVEMENT THERE,
10:59AM 20 DURING YOUR TIME AT THE COMPANY, WERE THERANOS ANALYZERS EVER
10:59AM 21 USED BY THE MILITARY CLINICALLY IN THE TREATMENT OF DEPLOYED
10:59AM 22 SOLDIERS?

10:59AM 23 A. NOT TO MY KNOWLEDGE.

10:59AM 24 Q. DID THE MILITARY DEPLOY ANY THERANOS DEVICES TO A
10:59AM 25 BATTLEFIELD OR A WAR ZONE FOR CLINICAL USE?

10:59AM 1

A. NO.

10:59AM 2

Q. TO YOUR KNOWLEDGE, DID THE MILITARY EVER SEND A SINGLE

10:59AM 3

THERANOS ANALYZER TO THE MIDDLE EAST?

10:59AM 4

A. NO.

10:59AM 5

Q. AND TO YOUR KNOWLEDGE, WAS A THERANOS ANALYZER EVER

10:59AM 6

INSTALLED ON A MEDEVAC OR ANOTHER MILITARY HELICOPTER?

10:59AM 7

A. NO.

10:59AM 8

Q. DID YOU EVER DISCUSS WITH MS. HOLMES THE REASON WHY THE

10:59AM 9

MILITARY PROJECTS DIDN'T MOVE FURTHER ALONG?

10:59AM 10

A. YES.

10:59AM 11

Q. AND WHAT DO YOU REMEMBER HER SAYING ABOUT THAT?

11:00AM 12

MS. WALSH: OBJECTION. HEARSAY.

11:00AM 13

MR. BOSTIC: IT'S NOT FOR THE TRUTH, YOUR HONOR.

11:00AM 14

THE COURT: FOR WHAT PURPOSE?

11:00AM 15

MR. BOSTIC: SO I THINK THIS IS TO -- I THINK THE

11:00AM 16

RELEVANT COMPARISON IS BETWEEN WHAT MS. HOLMES SAID AND THE

11:00AM 17

ACTUAL STATE OF THE TECHNOLOGY AT THE COMPANY.

11:00AM 18

THE COURT: AND THAT'S NOT FOR THE TRUTH?

11:00AM 19

MR. BOSTIC: NO, YOUR HONOR. IN FACT, I BELIEVE THE

11:00AM 20

EVIDENCE WOULD SHOW THAT IT'S A FALSE STATEMENT.

11:00AM 21

THE COURT: ALL RIGHT. THANK YOU.

11:00AM 22

LADIES AND GENTLEMEN, THIS WILL BE ADMITTED NOT FOR THE

11:00AM 23

TRUTH OF THE MATTER ASSERTED IN THIS STATEMENT BY MS. HOLMES,

11:00AM 24

BUT ONLY AS TO ANY ISSUE OF FALSITY. IT'S NOT FOR THE TRUTH OF

11:00AM 25

THE MATTER ASSERTED.

11:00AM 1

BY MR. BOSTIC:

11:00AM 2

Q. SO, MR. EDLIN, THE QUESTION WAS, WHAT REASON, IF ANY, DID

11:01AM 3

MS. HOLMES GIVE YOU FOR WHY THE MILITARY PROJECTS WERE MOVING

11:01AM 4

FURTHER ALONG?

11:01AM 5

A. SHE TOLD ME THAT IT WAS A RESOURCE ISSUE AND THAT THE

11:01AM 6

COMPANY'S LIMITED RESOURCES HAD TO BE DIRECTED TOWARDS

11:01AM 7

PREPARING FOR THE COMMERCIAL RETAIL LAUNCH.

11:01AM 8

Q. IN THAT CONVERSATION, OR ANY OTHER CONVERSATION, DID

11:01AM 9

MS. HOLMES EVER TALK ABOUT LIMITATIONS IN CAPABILITIES OF THE

11:01AM 10

THERANOS DEVICES AS BEING THE REASON WHY THOSE CONTACTS WITH

11:01AM 11

THE MILITARY DIDN'T MOVE FORWARD?

11:01AM 12

A. SHE DID NOT.

11:01AM 13

Q. IN ANY COMMUNICATIONS THAT YOU WERE INVOLVED IN WITH THE

11:01AM 14

MILITARY, WAS THE MILITARY EVER TOLD THAT DEVICE READINESS, OR

11:01AM 15

THE CAPABILITIES OF THE DEVICE WERE THE REASON WHY THESE

11:01AM 16

PROJECTS WEREN'T MOVING FORWARD?

11:01AM 17

A. I RECALL THAT THE FACT THAT THERANOS WAS CUSTOMIZING ITS

11:02AM 18

DEVICES FOR A PROGRAM AND NEEDED TIME TO DO THAT WAS BEING

11:02AM 19

DISCUSSED.

11:02AM 20

Q. YOU REMEMBER IT BEING DISCUSSED IN TERMS OF CUSTOMIZATION?

11:02AM 21

A. YES.

11:02AM 22

Q. AND DO YOU RECALL THE MILITARY EVER BEING TOLD THAT

11:02AM 23

THERANOS DIDN'T HAVE A SINGLE DEVICE THAT COULD RUN ALL OF THE

11:02AM 24

TESTS THAT THE MILITARY NEEDED?

11:02AM 25

A. NO.

11:02AM 1 MS. WALSH: OBJECTION. LEADING.

11:02AM 2 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

11:02AM 3 BY MR. BOSTIC:

11:02AM 4 Q. AND THE ANSWER WAS?

11:02AM 5 A. NO.

11:02AM 6 Q. I'D LIKE TO SHIFT GEARS AND TALK ABOUT THERANOS PATIENTS.

11:02AM 7 IN YOUR ROLE AT THERANOS, WERE YOU GENERALLY AWARE OF

11:02AM 8 CALLS THAT THE COMPANY WOULD GET FROM PATIENTS OR DOCTORS ABOUT

11:02AM 9 QUESTIONABLE OR INACCURATE TEST RESULTS?

11:02AM 10 A. I WAS GENERALLY AWARE.

11:02AM 11 Q. ALL RIGHT. HOW DID YOU COME TO BE AWARE OF THAT

11:02AM 12 HAPPENING?

11:02AM 13 A. ON A FEW INSTANCES I WAS COPIED ON EMAIL SERVICE.

11:03AM 14 Q. FROM YOUR WORK AT THE COMPANY, DO YOU KNOW WHETHER THERE

11:03AM 15 WERE PEOPLE WHO WORKED THERE WHO WERE DESIGNATED TO RECEIVE

11:03AM 16 THOSE CALLS FROM CUSTOMERS OR PATIENTS?

11:03AM 17 A. YES.

11:03AM 18 Q. AND WHAT GROUP OF PEOPLE ARE WE TALKING ABOUT THERE?

11:03AM 19 A. I BELIEVE THERE WAS A CUSTOMER SERVICES GROUP THAT

11:03AM 20 RECEIVED THOSE CALLS.

11:03AM 21 Q. AND ARE YOU AWARE OF WHERE THAT CUSTOMER SERVICES GROUP

11:03AM 22 SAT, IN OTHER WORDS, AT WHAT FACILITY?

11:03AM 23 A. SO WE WERE IN -- I WAS IN THREE DIFFERENT BUILDINGS WHEN I

11:03AM 24 WAS EMPLOYED BY THE COMPANY. I DO RECALL THAT IN THE SECOND

11:03AM 25 BUILDING, THAT TEAM WAS AT THE THERANOS OFFICES IN PALO ALTO.

11:03AM 1 I DON'T RECALL WHERE THAT GROUP WAS LOCATED IN MY -- IN
11:03AM 2 THE THIRD BUILDING THAT I WAS APART OF IT.

11:03AM 3 Q. OKAY. AND THESE ARE BUILDINGS THAT YOU MOVED TO
11:03AM 4 SEQUENTIALLY?

11:04AM 5 A. CORRECT.

11:04AM 6 Q. LET ME ASK YOU TO TURN TO TAB 5413 IN THE BINDER IN FRONT
11:04AM 7 OF YOU.

11:04AM 8 OKAY. DO YOU HAVE 5413?

11:04AM 9 A. YES.

11:04AM 10 Q. AND IS THIS AN EMAIL, INCLUDING YOU ON THE CHAIN, RELATING
11:04AM 11 TO A QUESTION FROM A PATIENT OR PHYSICIAN ABOUT A THERANOS LAB
11:04AM 12 TEST RESULT?

11:04AM 13 A. YES.

11:04AM 14 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 5413.

11:04AM 15 MS. WALSH: OBJECTION, YOUR HONOR. THERE ARE
11:04AM 16 MULTIPLE LEVELS OF HEARSAY IN THIS EMAIL.

11:04AM 17 THE COURT: MR. BOSTIC.

11:05AM 18 BY MR. BOSTIC:

11:05AM 19 Q. MR. EDLIN, DURING YOUR TIME AT THERANOS, WAS EMAIL USED AS
11:05AM 20 A PRIMARY MEANS OF COMMUNICATION BETWEEN EMPLOYEES?

11:05AM 21 A. YES.

11:05AM 22 Q. AND WHEN IT CAME TO THE WORK OF THE LAB AND THE RESULTS
11:05AM 23 THAT WENT OUT, WAS EMAIL USED TO DOCUMENT AND DISCUSS ISSUES
11:05AM 24 ABOUT SOME OF THOSE RESULTS?

11:05AM 25 A. I DON'T KNOW SPECIFICALLY ABOUT THE LAB COMMUNICATIONS,

11:05AM 1 BUT I BELIEVE IT WAS A COMBINATION OF EMAILS AND CONVERSATIONS.

11:05AM 2 Q. AND WERE YOU SOMETIMES INCLUDED IN INSTANCES OF EMAIL

11:05AM 3 CHAINS DISCUSSING ISSUES AROUND PATIENT COMPLAINTS LIKE THE ONE

11:06AM 4 IN FRONT OF YOU?

11:06AM 5 A. IT WAS INFREQUENT, BUT SOMETIMES, YES.

11:06AM 6 Q. AND IN THOSE EMAILS, WAS IT IMPORTANT FOR THE PEOPLE

11:06AM 7 CONVEYING THE INFORMATION TO BE ACCURATE SO THAT THE ISSUES

11:06AM 8 COULD BE ADDRESSED?

11:06AM 9 A. YES.

11:06AM 10 Q. AND WERE EMAILS LIKE THIS PRESERVED AT THERANOS SO THAT

11:06AM 11 THEY COULD BE REFERRED BACK TO LATER IF NEEDED?

11:06AM 12 A. I BELIEVE SO.

11:06AM 13 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 5413

11:06AM 14 UNDER 803(6) .

11:06AM 15 MS. WALSH: YOUR HONOR, ON PAGES 2 THROUGH 3, I

11:06AM 16 BELIEVE THAT FOUNDATION TAKES CARE OF THE EMAIL TO MR. EDLIN.

11:06AM 17 BUT ON PAGES 2 THROUGH 3, THERE ARE FURTHER ASSERTIONS

11:06AM 18 THAT ARE HEARSAY WITHIN HEARSAY, AND I BELIEVE MR. BOSTIC IS

11:06AM 19 OFFERING THOSE FOR THE TRUTH.

11:06AM 20 MR. BOSTIC: AT A MINIMUM, I BELIEVE THIS SHOULD

11:07AM 21 COME IN FOR NOTICE TO MR. BALWANI WHO IS ON THE SECOND TOP

11:07AM 22 EMAIL OF PAGE 1.

11:07AM 23 THE COURT: ALL RIGHT. THANK YOU.

11:07AM 24 ANYTHING FURTHER, MS. WALSH?

11:07AM 25 MS. WALSH: NO, YOUR HONOR.

11:07AM 1 THE COURT: ALL RIGHT. THANK YOU.

11:07AM 2 I'LL ADMIT THIS.

11:07AM 3 LADIES AND GENTLEMEN, THIS IS OFFERED NOT FOR THE EMAILS
11:07AM 4 AND THE CONTENT, THAT IS, THE CONTENT FROM THE SENDER OF THE
11:07AM 5 EMAIL REGARDING SERVICES, IT'S NOT OFFERED FOR THE TRUTH OF THE
11:07AM 6 MATTER ASSERTED, BUT ONLY AS TO THE ISSUE OF NOTICE TO THE
11:07AM 7 RECIPIENTS OF THE EMAIL OF WHICH MR. BALWANI WAS ONE.

11:07AM 8 SO IT'S FOR THAT LIMITED PURPOSE.

11:07AM 9 MR. BOSTIC.

11:07AM 10 AND IT MAY BE PUBLISHED.

11:07AM 11 (GOVERNMENT'S EXHIBIT 5413 WAS RECEIVED IN EVIDENCE.)

11:07AM 12 MR. BOSTIC: THANK YOU, YOUR HONOR.

11:07AM 13 Q. SO LOOKING AT EXHIBIT 5413, LET'S START WITH PAGE 2 AND
11:08AM 14 THE BOTTOM OF THE PAGE.

11:08AM 15 MR. EDLIN, THIS IS AN EMAIL FROM JULY 29TH, 2014, FROM
11:08AM 16 SOMEONE NAMED AMELIA AGUIRRE TO CHRISTIAN HOLMES AND TO YOU.

11:08AM 17 DO YOU SEE THAT?

11:08AM 18 A. YES.

11:08AM 19 Q. AND THE SUBJECT IS PATIENT REQUESTING PHYSICIAN CALL
11:08AM 20 REGARDING LAB RESULTS.

11:08AM 21 AND THE TEXT SAYS, "I RECEIVED A CALL FROM PATIENT," AND
11:08AM 22 WE REDACTED THE NAME. IT SAYS, "HE EXPRESSED THAT HE DOES NOT
11:08AM 23 BELIEVE OUR RESULTS WERE NOT ACCURATE," ALTHOUGH THAT MAY BE A
11:08AM 24 TYPO, "FROM HIS LAST VISIT AND HIS PHYSICIAN AGREES (NOT
11:08AM 25 CONSISTENT WITH HISTORY)."

11:08AM 1 DO YOU SEE THAT?

11:08AM 2 A. YES.

11:08AM 3 Q. AND LET'S GO TO PAGE 3. AND ZOOM IN THE TOP TWO
11:08AM 4 PARAGRAPHS THERE.

11:08AM 5 THE REPORT SAYS, "HE CAME TO THERANOS MOST RECENTLY ON
11:08AM 6 JULY 22ND, AND THE RESULTS FOR INR WERE .9. HIS PHYSICIAN SENT
11:09AM 7 HIM TO LABCORP 2 DAYS LATER BECAUSE HE BELIEVED THE LAB RESULTS
11:09AM 8 WERE LOW AND HIS RESULT AT LABCORP FOR INR WAS 3.1 (WHICH
11:09AM 9 PATIENT SAYS IS MORE CONSISTENT WITH HIS HISTORY WHICH IS
11:09AM 10 USUALLY BETWEEN 2.0 AND 3.0)."

11:09AM 11 DO YOU SEE THAT?

11:09AM 12 A. YES.

11:09AM 13 Q. AND IT SAYS, "HE CURRENTLY HAS A STANDING ORDER FOR PT/INR
11:09AM 14 FROM HIS DOCTOR, HOWEVER, HE DOES NOT WANT TO CONTINUE TO COME
11:09AM 15 TO THERANOS EVEN THOUGH HE HAS A STANDING ORDER UNTIL WE VERIFY
11:09AM 16 THAT OUR RESULTS ARE ACCURATE."

11:09AM 17 DO YOU SEE THAT?

11:09AM 18 A. YES.

11:09AM 19 Q. AND LET'S GO BACK TO PAGE 2, AND LET'S ZOOM IN ON THE
11:09AM 20 EMAIL FROM CHRISTIAN HOLMES TO YOU AND TO MAX FOSQUE.

11:09AM 21 A. YES.

11:09AM 22 Q. AND CHRISTIAN HOLMES SAYS TO MAX, "CAN YOU PULL THE
11:09AM 23 RESULTS HISTORY FOR THIS PATIENT ON THE INR HE'S ASKING ABOUT?
11:09AM 24 ELIZABETH WANTS TO REVIEW THEN HAVE SOMEONE CALL THE
11:09AM 25 PATIENT/DOC BACK."

11:10AM 1 DO YOU SEE THAT?

11:10AM 2 A. YES.

11:10AM 3 Q. DURING YOUR TIME AT THE COMPANY, DID YOU HAVE AN
11:10AM 4 UNDERSTANDING OF WHAT ROLE ELIZABETH HOLMES HAD IN REVIEWING
11:10AM 5 PATIENT RESULTS IN SITUATIONS SUCH AS THIS?

11:10AM 6 A. I BELIEVE ON SOME OCCASIONS SHE WORKED WITH WHOEVER WOULD
11:10AM 7 BE RESPONDING TO WORKING WITH THE PHYSICIAN ON CERTAIN
11:10AM 8 MESSAGING AND SCRIPTING.

11:10AM 9 Q. IN FACT, LET'S GO TO PAGE 1 OF THIS EXHIBIT. AND LOOK AT
11:10AM 10 THE TOP TWO MESSAGES OR THE TOP THREE MESSAGES.

11:10AM 11 WE SEE A MESSAGE AT THE BOTTOM FROM MS. HOLMES TO THIS
11:10AM 12 GROUP, INCLUDING MR. BALWANI.

11:10AM 13 DO YOU SEE THAT?

11:10AM 14 A. YES.

11:10AM 15 Q. SHE SAYS, "MAX -- NEED YOU TO TRIAGE THIS, THEN COME BRIEF
11:10AM 16 ME ON WHAT HAPPENED. FROM THERE WE'LL DECIDE WHO WILL CALL."

11:10AM 17 DO YOU SEE THAT?

11:10AM 18 A. YES.

11:10AM 19 Q. MAX FOSQUE THEN ASKS, "WHAT DOES THIS MEAN?"

11:11AM 20 IS THAT EMAIL JUST TO YOU?

11:11AM 21 A. I BELIEVE IT'S TO CHRISTIAN.

11:11AM 22 Q. I SEE.

11:11AM 23 AND THEN CHRISTIAN HOLMES WRITES BACK, "WHAT SUNNY JUST
11:11AM 24 SAID -- HOPE THAT MAKES SENSE. BASICALLY HAVE NISHIT LOOK AT
11:11AM 25 THE DATA AND SEE IF ANYTHING WENT WRONG (IDENTIFY THE ISSUE)

11:11AM 1 THEN WORK WITH ELIZABETH ON SCRIPTING WHILE SUNNY ADDRESSES
11:11AM 2 ROOT CAUSE OF ANY ISSUE INTERNALLY."

11:11AM 3 DO YOU SEE THAT?

11:11AM 4 A. YES.

11:11AM 5 Q. AND THAT REFERENCE TO ELIZABETH HOLMES WORKING ON
11:11AM 6 SCRIPTING, WHAT IS YOUR UNDERSTANDING OF WHAT SCRIPTING WOULD
11:11AM 7 HAVE MEANT IN THAT CONTEXT?

11:11AM 8 A. I THINK IT REFERS TO MESSAGING THAT WOULD RELATE TO THE
11:11AM 9 SPECIFIC ISSUE.

11:11AM 10 Q. MESSAGING TO WHOM?

11:11AM 11 A. PHYSICIANS.

11:11AM 12 Q. AND THEN IT SAYS, "WHILE SUNNY ADDRESSES ROOT CAUSE OF ANY
11:12AM 13 ISSUE INTERNALLY."

11:12AM 14 WHAT IS YOUR UNDERSTANDING OF WHAT WOULD BE INVOLVED IN
11:12AM 15 THAT?

11:12AM 16 A. MY UNDERSTANDING IS THAT SUNNY WOULD WORK WITH THE
11:12AM 17 LABORATORY PERSONNEL TO UNDERSTAND WHAT CAUSED THE ISSUE.

11:12AM 18 SO INTERNALLY I BELIEVE IT WOULD REFER TO WITHIN THE
11:12AM 19 CLINICAL LAB OR WITH THERANOS SCIENTISTS.

11:12AM 20 Q. OKAY. WE CAN SET THAT ASIDE.

11:12AM 21 I'D LIKE TO ASK YOU A FEW QUESTIONS ABOUT THE RELATIONSHIP
11:12AM 22 BETWEEN MS. HOLMES AND MR. BALWANI.

11:12AM 23 WE TALKED EARLIER ABOUT THEIR WORKING RELATIONSHIP AND
11:12AM 24 WHAT YOU OBSERVED THERE. I'D LIKE TO ASK YOU NOW ABOUT THEIR
11:12AM 25 PERSONAL RELATIONSHIP.

11:12AM 1 WHEN YOU WERE WORKING AT THE COMPANY, WERE YOU AWARE THAT

11:12AM 2 MS. HOLMES AND MR. BALWANI HAD A PERSONAL RELATIONSHIP?

11:12AM 3 A. YES.

11:12AM 4 Q. HOW DID YOU KNOW ABOUT THAT?

11:12AM 5 A. WHEN I WAS FIRST INTRODUCED TO SUNNY IN -- WHEN I WAS

11:13AM 6 STILL IN COLLEGE, HE WAS INTRODUCED TO ME AS ELIZABETH'S

11:13AM 7 BOYFRIEND.

11:13AM 8 Q. EVEN BEFORE YOU STARTED WORK AT THE COMPANY?

11:13AM 9 A. YES.

11:13AM 10 Q. AND WHEN YOU STARTED WORK AT THE COMPANY, WERE MS. HOLMES

11:13AM 11 AND MR. BALWANI STILL ROMANTICALLY INVOLVED?

11:13AM 12 A. I BELIEVE SO -- I'M NOT SURE OF THE EXACT NATURE OF THEIR

11:13AM 13 RELATIONSHIP, BUT I BELIEVE THERE WAS STILL A RELATIONSHIP

11:13AM 14 OUTSIDE OF THE OFFICE.

11:13AM 15 Q. DURING THE TIME THAT YOU WORKED AT THE COMPANY, WAS THAT

11:13AM 16 RELATIONSHIP PUBLIC KNOWLEDGE?

11:13AM 17 IN OTHER WORDS, WAS IT SOMETHING THAT WAS FREELY SHARED

11:13AM 18 WITH EMPLOYEES OF THE COMPANY?

11:13AM 19 A. NO.

11:13AM 20 Q. DURING THE TIME THAT YOU WERE AN EMPLOYEE AT THE COMPANY,

11:13AM 21 DID YOU HAVE ANY OPPORTUNITIES TO OBSERVE MS. HOLMES AND

11:13AM 22 MR. BALWANI OUTSIDE OF THE WORK CONTEXT IN THE PERSONAL

11:14AM 23 CONTEXT?

11:14AM 24 A. YES.

11:14AM 25 Q. AND HOW DID THOSE OPPORTUNITIES COME UP?

11:14AM 1 A. THEY CAME UP WHEN CHRISTIAN WOULD USUALLY TELL MYSELF OR
11:14AM 2 OTHER MEMBERS OF THE PRODUCT MANAGEMENT TEAM, WE WOULD, YOU
11:14AM 3 KNOW, BE INVITED TO DINNER, EITHER TO GO OUT TO DINNER OR THERE
11:14AM 4 WERE OTHER TIMES THAT WE WENT TO SUNNY'S HOUSE FOR DINNER.

11:14AM 5 Q. AND DURING THAT TIME, DID YOU OBSERVE MR. BALWANI AND
11:14AM 6 MS. HOLMES ACTING AS A COUPLE?

11:14AM 7 A. YES.

11:14AM 8 Q. AND DURING PART OF THAT TIME PERIOD, WERE MS. HOLMES AND
11:14AM 9 MR. BALWANI LIVING TOGETHER AT THE SAME ADDRESS?

11:14AM 10 A. YES.

11:14AM 11 Q. AND DO YOU REMEMBER WHAT DATE RANGE WE WOULD BE TALKING
11:14AM 12 ABOUT THERE APPROXIMATELY?

11:14AM 13 A. I'M NOT SURE OF THE EXACT DATES, BUT I THINK IN THE 2013
11:15AM 14 TO '14 TO PART OF '15 RANGE.

11:15AM 15 Q. DURING YOUR TIME AT THE COMPANY, WAS IT YOUR UNDERSTANDING
11:15AM 16 THAT MS. HOLMES AND MR. BALWANI WERE IN A ROMANTIC RELATIONSHIP
11:15AM 17 THE ENTIRE TIME, OR DID YOU COME TO UNDERSTAND AT SOME POINT
11:15AM 18 THAT THAT RELATIONSHIP ENDED?

11:15AM 19 WHAT DID YOU KNOW ABOUT THAT?

11:15AM 20 A. I DIDN'T HAVE AN UNDERSTANDING OF THAT.

11:15AM 21 Q. LET ME SHOW YOU ONE MORE DOCUMENT.

11:15AM 22 MAY I APPROACH, YOUR HONOR?

11:15AM 23 THE COURT: YES.

11:16AM 24 MR. BOSTIC, BEFORE WE MOVE INTO THIS, I'M BEING REQUESTED
11:16AM 25 FOR A BREAK BY ONE OF THE JURORS.

11:16AM 1 MR. BOSTIC: NOW IS A GOOD TIME, YOUR HONOR.

11:16AM 2 THE COURT: LET'S TAKE OUR MORNING BREAK, LADIES AND

11:16AM 3 GENTLEMEN. THANK YOU.

11:50AM 4 (RECESS FROM 11:17 A.M. UNTIL 11:50 A.M.)

11:50AM 5 (JURY OUT AT 11:50 A.M.)

11:50AM 6 THE COURT: LET'S GO BACK ON THE RECORD.

11:50AM 7 I JUST WANTED TO SAY, COUNSEL, AFTER WE BREAK TODAY, I'D

11:50AM 8 LIKE TO KEEP ONE JUROR WHO HAS EXPRESSED SOME ISSUES REGARDING

11:50AM 9 MEDICAL APPOINTMENTS THAT WE SHOULD DISCUSS. I'M GOING TO KEEP

11:51AM 10 THE JUROR, AND WE'LL TALK WITH HIM PRIVATELY OUTSIDE OF THE

11:51AM 11 PRESENCE OF THE OTHER JURORS.

11:51AM 12 I JUST WANTED TO LET YOU KNOW THAT.

11:51AM 13 WE'LL BRING OUR JURY IN. I THINK THEY'RE GOING TO

11:51AM 14 RECONSTITUTE THEMSELVES IN THE BOX. SO THIS WILL TAKE A

11:51AM 15 MOMENT.

11:51AM 16 (PAUSE IN PROCEEDINGS.)

11:55AM 17 (JURY IN AT 11:55 A.M.)

11:55AM 18 THE COURT: WE'RE BACK ON THE RECORD. ALL COUNSEL

11:55AM 19 ARE PRESENT.

11:55AM 20 MR. EDLIN IS ON THE STAND.

11:55AM 21 OUR JURY IS PRESENT RECONSTITUTED IN THE BOX.

11:55AM 22 JUST ON OBSERVATION, FOLKS, IT LOOKS LIKE THIS WILL BE A

11:55AM 23 FULL FLIGHT.

11:55AM 24 (LAUGHTER.)

11:55AM 25 THE COURT: SO I'M GLAD. YOU LOOK GOOD THERE.

11:55AM 1 THANK YOU. I APPRECIATE THAT.

11:55AM 2 IF ANY -- DURING THE PROCEEDINGS, IF ANYONE HAS ANY ISSUE
11:55AM 3 ABOUT ANYTHING, YOU SHOULD PLEASE LET ME KNOW, LET MS. ROBINSON
11:55AM 4 KNOW, RAISE YOUR HAND IF YOU NEED TO ADJUST ANY OF THESE
11:55AM 5 SCREENS.

11:55AM 6 YOU MIGHT WANT TO ADJUST THESE SCREENS NOW IN
11:55AM 7 ANTICIPATION, BUT IF ANY OTHER ISSUE COMES UP REGARDING YOUR
11:55AM 8 COMFORT IN THE SEATING, PLEASE LET ME KNOW AND WE'LL DO --
11:55AM 9 WE'LL MAKE EFFORTS TO ACCOMMODATE THINGS.

11:56AM 10 OTHERWISE, ENJOY THE FLIGHT. YOU'RE VERY COMPACT.

11:56AM 11 I HAVE TO SAY WE HAVEN'T SEEN -- IT'S BEEN ABOUT TWO YEARS
11:56AM 12 SINCE WE ACTUALLY HAD A JURY FULLY CONSTITUTED IN THE BOX HERE.
11:56AM 13 SO IT'S REFRESHING FOR ME TO SEE A FULL BOX AS WE GET BACK TO
11:56AM 14 NORMALCY IN OUR COURTS.

11:56AM 15 SO THANK YOU VERY MUCH.

11:56AM 16 JURORS: YAY.

11:56AM 17 THE COURT: MR. BOSTIC.

11:56AM 18 MR. BOSTIC: THANK YOU, YOUR HONOR.

11:56AM 19 Q. MR. EDLIN, BEFORE THE BREAK, I THINK I HANDED YOU A COPY
11:56AM 20 OF WHAT HAS BEEN MARKED AS EXHIBIT 5387I.

11:56AM 21 DO YOU HAVE THAT IN FRONT OF YOU?

11:56AM 22 A. YES.

11:56AM 23 Q. WHEN YOU WERE AN EMPLOYEE AT THERANOS, DID YOU EVER
11:56AM 24 COMMUNICATE WITH MS. HOLMES AND MR. BALWANI BY TEXT MESSAGE?

11:56AM 25 A. SOMETIMES, YES.

11:56AM 1 Q. DID YOU EVER HAVE OCCASION, THOUGH, TO SEE THEIR TEXT
11:56AM 2 CORRESPONDENCE BETWEEN EACH OTHER, JUST THE TWO OF THEM?

11:56AM 3 A. NO.

11:56AM 4 Q. I'D LIKE TO REVIEW SOME OF THOSE TEXT MESSAGES WITH YOU.
11:57AM 5 YOUR HONOR, THE GOVERNMENT OFFERS 5387I.

11:57AM 6 MS. WALSH: NO OBJECTION, YOUR HONOR.

11:57AM 7 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

11:57AM 8 (GOVERNMENT'S EXHIBIT 5387I WAS RECEIVED IN EVIDENCE.)

11:57AM 9 BY MR. BOSTIC:

11:57AM 10 Q. FIRST, BEFORE WE ZOOM IN AND LOOK AT ANY OF THESE
11:57AM 11 MESSAGES, I ASKED YOU BEFORE WHETHER MS. HOLMES AND
11:57AM 12 MR. BALWANI'S RELATIONSHIP WAS SOMETHING THAT COULD BE FREELY
11:57AM 13 SHARED AND DISCUSSED AT THERANOS.

11:57AM 14 DO YOU REMEMBER THAT?

11:57AM 15 A. YES.

11:57AM 16 Q. AND DO YOU REMEMBER WHAT YOUR ANSWER WAS ON THAT?

11:57AM 17 A. NO.

11:57AM 18 Q. AND HOW DID YOU COME TO UNDERSTAND THAT THEIR RELATIONSHIP
11:57AM 19 WAS NOT SOMETHING THAT COULD BE OPENLY DISCUSSED AT THE
11:57AM 20 COMPANY?

11:57AM 21 A. I DON'T REMEMBER A SPECIFIC CONVERSATION. I DON'T
11:58AM 22 REMEMBER A SPECIFIC CONVERSATION.

11:58AM 23 Q. YOU MENTIONED THAT THERE WAS A GROUP OF PRODUCT MANAGERS
11:58AM 24 WHO WOULD SOMETIMES BE INVITED TO THE HOUSE WHERE MS. HOLMES
11:58AM 25 AND MR. BALWANI LIVED; IS THAT RIGHT?

11:58AM 1

A. YES.

11:58AM 2

Q. WHAT WAS IT ABOUT THAT GROUP THAT, IN YOUR UNDERSTANDING, MADE IT OKAY FOR THEM TO KNOW ABOUT THE EXISTENCE OF THE RELATIONSHIP?

11:58AM 3

11:58AM 4

A. WE HAD MET BEFORE I HAD STARTED WORKING THERE, AND

11:58AM 6

SIMILARLY OTHER -- WE MET BEFORE WE STARTED WORKING AT

11:58AM 7

THERANOS, AND WE WERE AWARE OF THAT RELATIONSHIP EXISTING.

11:58AM 8

Q. AND ARE WE TALKING THEN ABOUT THE GROUP OF

11:58AM 9

CHRISTIAN HOLMES'S COLLEGE CLASSMATES?

11:58AM 10

A. YES.

11:58AM 11

Q. STARTING AT PAGE 1 OF THIS EXHIBIT, I'LL ASK YOU TO LOOK

11:59AM 12

AT THE TOP PORTION OF THESE TEXT MESSAGES.

11:59AM 13

DO YOU SEE THAT WE'RE LOOKING AT TEXTS FROM JUNE OF 2011?

11:59AM 14

A. YES.

11:59AM 15

Q. AND THIS BEGINS WITH A MESSAGE FROM MS. HOLMES TO

11:59AM 16

MR. BALWANI SAYING, "STEVE WANTS WARRANTS FOR HITTING 50 PER

11:59AM 17

DAY PER STORE."

11:59AM 18

DO YOU SEE THAT?

11:59AM 19

A. YES.

11:59AM 20

Q. ARE YOU AWARE -- WELL, LET ME ASK YOU, WERE YOU WORKING AT

11:59AM 21

THE COMPANY IN JUNE OF 2011?

11:59AM 22

A. NO.

11:59AM 23

Q. WHEN YOU STARTED AT THE COMPANY, WERE YOU AWARE OF

11:59AM 24

DEALINGS THAT THE COMPANY HAD HAD WITH SAFEWAY?

11:59AM 25

A. YES.

11:59AM 1 Q. AND WHAT WERE YOU AWARE OF IN THAT REGARD?

11:59AM 2 A. I WAS AWARE THAT THE COMPANY WAS WORKING WITH SAFEWAY TO

11:59AM 3 PLAN A ROLLOUT SIMILAR TO THE WALGREENS ROLLOUT WHERE

11:59AM 4 THERANOS -- LAB TESTING WOULD BE AVAILABLE THROUGH SAFEWAY.

11:59AM 5 Q. AND DO YOU RECOGNIZE THE NAME STEVE BURD FROM YOUR TIME AT

12:00PM 6 THERANOS?

12:00PM 7 A. YES. HE WAS THE CEO OF SAFEWAY AT THAT TIME.

12:00PM 8 Q. MS. HOLMES TEXTS THAT "STEVE WANTS WARRANTS FOR HITTING 50

12:00PM 9 PER DAY PER STORE."

12:00PM 10 SHE THEN ASKED, "YOU THERE?

12:00PM 11 THEN MR. BALWANI SAYS, "WE CANT DO THAT."

12:00PM 12 DO YOU SEE THAT?

12:00PM 13 A. YES.

12:00PM 14 Q. AND MR. BALWANI ASKS, "IN WHAT TIMEFRAME?"

12:00PM 15 AND MS. HOLMES SAYS, "DIDN'T SAY."

12:00PM 16 AND MR. BALWANI SAYS, "BESIDES. WE DON'T KNOW IF DOCS

12:00PM 17 WILL LIKE SAFEWAY OVER OTHERS."

12:00PM 18 DO YOU SEE THAT?

12:00PM 19 A. YES.

12:00PM 20 Q. AND HE SAYS, "WHAT IF SAFEWAY BUNGLES UP."

12:00PM 21 DID I READ THAT CORRECTLY?

12:00PM 22 A. YES.

12:00PM 23 Q. AND LET'S ZOOM OUT AND ZOOM IN ON THE NEXT PORTION.

12:00PM 24 MR. BALWANI ASKS A CLARIFYING QUESTION "YOU MEAN 50

12:00PM 25 PATIENTS PER DAY PER STORE RIGHT?"

12:00PM 1 AND MS. HOLMES SAYS, "YES"; RIGHT?

12:01PM 2 A. YES.

12:01PM 3 Q. AND MR. BALWANI GOES ON TO EXPLAIN WHY HE'S OPPOSED TO THE

12:01PM 4 IDEA.

12:01PM 5 DO YOU SEE THAT?

12:01PM 6 A. YES.

12:01PM 7 Q. AND MR. BALWANI THEN ASKS, "STILL ON PHONE WITH HIM?"

12:01PM 8 AND MS. HOLMES SAYS, "YES."

12:01PM 9 DO YOU SEE THAT?

12:01PM 10 A. YES.

12:01PM 11 Q. LET'S NOW GO TO THE NEXT PAGE OF THE EXHIBIT AND LET'S

12:01PM 12 ZOOM IN ON THE TOP HALF.

12:01PM 13 AGAIN, MORE COMMUNICATIONS ON JUNE 22ND, 2011.

12:01PM 14 MS. HOLMES SAYS, A THIRD FROM THE TOP, "MEETING WAS

12:01PM 15 PERFECT."

12:01PM 16 DO YOU SEE THAT?

12:01PM 17 A. YES.

12:01PM 18 Q. MR. BALWANI SAYS, "AWESOME. U R ALWAYS PERFECT."

12:01PM 19 DO YOU SEE THAT?

12:01PM 20 A. YES.

12:01PM 21 Q. AND MS. HOLMES REPORTS ABOUT HALF WAY DOWN THAT SELECTION,

12:01PM 22 "THEY WANT IN, WANT TO INVEST, WANT TO BE MOST PREFERRED

12:01PM 23 PARTNER."

12:01PM 24 DO YOU SEE THAT?

12:01PM 25 A. YES.

12:02PM 1 Q. AND MR. BALWANI RESPONDS, "AGTG. HMFR."

12:02PM 2 DO YOU SEE THAT?

12:02PM 3 A. YES.

12:02PM 4 Q. AND MS. HOLMES ASKS, "WHAT DOES AGTG MEAN?"

12:02PM 5 AND MR. BALWANI RESPONDS, "ALL GLORY TO GOD."

12:02PM 6 DO YOU SEE THAT?

12:02PM 7 A. YES.

12:02PM 8 Q. AND LET'S ZOOM IN ON THE BOTTOM OF THIS PAGE, THE BOTTOM

12:02PM 9 HALF.

12:02PM 10 AND DO YOU SEE SOME COMMUNICATIONS HERE RELATING TO

12:02PM 11 MR. BALWANI'S FLIGHT STATUS AND HIS FLIGHT BEING DELAYED?

12:02PM 12 A. YES.

12:02PM 13 Q. AND HE TALKS ABOUT WHETHER HE'S GOING TO WORK ON THE

12:02PM 14 PLANE.

12:02PM 15 DO YOU SEE THAT TOWARDS THE BOTTOM OF THE PAGE?

12:02PM 16 A. YES.

12:02PM 17 Q. LET'S GO TO PAGE 3 AND ZOOM IN ON THIS PORTION.

12:03PM 18 DO YOU SEE HERE MORE DISCUSSION ABOUT IMMEDIATE PLANS, AND

12:03PM 19 THEN ALSO A THIRD FROM THE BOTTOM A DISCUSSION ABOUT AN EMAIL

12:03PM 20 THAT MR. BALWANI SENT ABOUT LARRY SUMMER AND SQUARE.

12:03PM 21 HE SAYS, "GOOD TIME FOR US TO TALK WITH HANK NEXT MONTH

12:03PM 22 AFTER GLORY 2 (C2)."

12:03PM 23 DO YOU SEE THAT?

12:03PM 24 A. YES.

12:03PM 25 Q. AND THEN SOME ADDITIONAL INFORMATION ABOUT MS. HOLMES'S

12:03PM 1 LANDING TIME; CORRECT?

12:03PM 2 A. YES.

12:03PM 3 Q. AND THEN MR. BALWANI SAYS, "BE SAFE. TEXT ME WHEN U LAND

12:03PM 4 AND ARRIVE."

12:03PM 5 DO YOU SEE THAT?

12:03PM 6 A. YES.

12:03PM 7 Q. LET'S GO TO THE FOLLOWING PAGE. LET'S ZOOM IN ON THAT TOP

12:03PM 8 PORTION.

12:03PM 9 DO YOU SEE SOME MESSAGES FROM MR. BALWANI AND MS. HOLMES

12:03PM 10 EXPRESSING AFFECTION FOR EACH OTHER?

12:03PM 11 A. YES.

12:03PM 12 Q. LET'S GO DOWN TO THE BOTTOM SECTION.

12:04PM 13 WE SEE SOME MORE DISCUSSION BETWEEN MR. BALWANI AND

12:04PM 14 MS. HOLMES ABOUT DINNER PLANS; CORRECT?

12:04PM 15 A. YES.

12:04PM 16 Q. LET'S GO TO THE FOLLOWING PAGE. LET'S ZOOM IN ON THE

12:04PM 17 BOTTOM PORTION HERE, THE BOTTOM THIRD OR SO.

12:04PM 18 AND DO YOU SEE HERE THERE'S A MESSAGE FROM MR. BALWANI ON

12:04PM 19 JUNE 23RD, 2011, "THRU SKYPE WE R TOGETHER. CAN'T BE APART

12:04PM 20 FROM U FOR EVEN FEW HOURS."

12:04PM 21 DO YOU SEE THAT?

12:04PM 22 A. YES.

12:04PM 23 Q. LET'S GO TO THE NEXT PAGE. ZOOM IN ON THAT PORTION.

12:04PM 24 DO YOU SEE HERE SOME ADDITIONAL MESSAGES BETWEEN

12:05PM 25 MS. HOLMES AND MR. BALWANI EXPRESSING AFFECTION AND

12:05PM 1 APPRECIATION FOR THEIR RELATIONSHIP?

12:05PM 2 A. YES.

12:05PM 3 Q. LET'S GO TO THE FOLLOWING PAGE. THAT'S PAGE 7 OF THE
12:05PM 4 EXHIBIT. ZOOM IN ON THAT PORTION.

12:05PM 5 AND DO YOU SEE HERE A DISCUSSION ABOUT TOUCH SCREENS
12:05PM 6 STARTING WITH A TEXT MESSAGE FROM MR. BALWANI TO MS. HOLMES NOW
12:05PM 7 IN MAY OF 2012?

12:05PM 8 A. YES.

12:05PM 9 Q. AND DO YOU SEE THAT MR. BALWANI TALKS ABOUT A PREVIOUS
12:05PM 10 PURCHASE OR A PAYMENT FOR 200 12-INCH TOUCH SCREENS?

12:05PM 11 A. YES.

12:05PM 12 Q. AND MR. BALWANI THEN TELLS MS. HOLMES, "I DON'T THINK WE
12:05PM 13 WILL USE MORE THAN 20 OR 30 OF THESE THIS YEAR SO I AM TRYING
12:06PM 14 TO RETURN 170-180 OF THESE IF WE CAN."

12:06PM 15 DO YOU SEE THAT?

12:06PM 16 A. YES.

12:06PM 17 Q. AND MR. BALWANI THEN EXPLAINS THAT THE 20 TO 30 CAN BE
12:06PM 18 USED IN MONOS OR MINILABS THAT WE WILL SEND OUT FOR COOL DEMOS.

12:06PM 19 AND HE SAYS FOR ALL NORMANDY MACHINES, WE WILL USE THE
12:06PM 20 EXISTING 8.4 INCH SCREENS.

12:06PM 21 DO YOU SEE THAT?

12:06PM 22 A. YES.

12:06PM 23 Q. DURING YOUR TIME AT THE COMPANY, DO YOU RECALL DIFFERENT
12:06PM 24 VERSIONS OF DEVICES THAT WERE SENT OUT FOR DEMOS VERSUS
12:06PM 25 VERSIONS THAT WERE USED INTERNALLY FOR PATIENT TESTING?

12:06PM 1 A. CAN YOU REPEAT THE QUESTION.

12:06PM 2 Q. SURE.

12:06PM 3 DURING YOUR TIME AT THE COMPANY, DID YOU EVER WITNESS
12:06PM 4 DIFFERENT VERSIONS OF DEVICES BEING SENT OUT FOR DEMOS THAT
12:06PM 5 WERE DIFFERENT FROM THE VERSIONS THAT WERE USED IN HOUSE FOR
12:06PM 6 PATIENT TESTING?

12:06PM 7 A. AND WHEN YOU SAY, "SENT OUT FOR DEMOS"?

12:06PM 8 Q. WELL, I GUESS I'M REFERRING TO THE LANGUAGE OF
12:07PM 9 MR. BALWANI'S TEXT WHERE HE SAYS, "MONOS AND MINILABS THAT WE
12:07PM 10 SENT OUT FOR COOL DEMOS."

12:07PM 11 LET ME JUST ASK, DO YOU HAVE A MEMORY OF A PRACTICE THAT
12:07PM 12 IS CONSISTENT WITH THIS TEXT?

12:07PM 13 A. NO.

12:07PM 14 Q. YOU TESTIFIED EARLIER ABOUT MONOS AND MINILABS AND OTHER
12:07PM 15 NEXT GENERATION DEVICES.

12:07PM 16 DO YOU REMEMBER THAT TESTIMONY?

12:07PM 17 A. YES.

12:07PM 18 Q. WERE THOSE DEVICES USED FOR PATIENT TESTING AT THERANOS?

12:07PM 19 A. NO.

12:07PM 20 Q. DO YOU SEE FURTHER DOWN THE PAGE THERE'S SOME ADDITIONAL
12:07PM 21 DISCUSSION AND PLANNING BETWEEN MS. HOLMES AND MR. BALWANI
12:07PM 22 ABOUT DEVICE SPECIFICATIONS AND ALLOCATION?

12:08PM 23 A. YES.

12:08PM 24 Q. LET'S GO TO PAGE 10 OF THE EXHIBIT, AND LET'S ZOOM IN ON
12:08PM 25 THE TOP HALF OF THE PAGE.

12:08PM 1 AND DO YOU SEE HERE THAT NOW WE'RE IN NOVEMBER 2013, SO
12:08PM 2 WE'VE MOVED FORWARD IN TIME?

12:08PM 3 A. YES.

12:08PM 4 Q. AND NOVEMBER 18TH, 2013, WE SEE MR. BALWANI TEXTS "HOME"
12:08PM 5 TO MS. HOLMES.

12:08PM 6 DO YOU SEE THAT?

12:08PM 7 A. YES.

12:08PM 8 Q. MS. HOLMES RESPONDS WITH A SMILEY FACE AND SAYS, "I AM
12:08PM 9 THERE IN SPIRIT."

12:08PM 10 SHE SAYS, "MAKE FIRE SO WE WILL BE CLOSE."

12:08PM 11 DO YOU SEE THAT?

12:08PM 12 A. YES.

12:08PM 13 Q. AND THEN THERE'S SOME MORE DISCUSSION EXPRESSING AFFECTION
12:08PM 14 AND THEN DISCUSSING SOME PLANS TO WORK.

12:08PM 15 DO YOU SEE THAT?

12:08PM 16 A. YES.

12:08PM 17 Q. LET'S GO TO PAGE 12. LET'S ZOOM IN ON THE TOP TWO-THIRDS
12:09PM 18 OF THIS PORTION.

12:09PM 19 AND NOW WE'RE IN OCTOBER 2014.

12:09PM 20 DO YOU SEE THAT?

12:09PM 21 A. YES.

12:09PM 22 Q. AROUND THIS TIME, WAS IT YOUR UNDERSTANDING THAT
12:09PM 23 MS. HOLMES AND MR. BALWANI WERE STILL TOGETHER?

12:09PM 24 A. YES.

12:09PM 25 Q. MR. BALWANI TEXTS THAT HE MISSES MS. HOLMES WHEN THEY ARE

12:09PM 1 NOT TOGETHER.

12:09PM 2 DO YOU SEE THAT?

12:09PM 3 A. YES.

12:09PM 4 Q. AND THEN THERE'S SOME MORE DISCUSSION EXPRESSING AFFECTION

12:09PM 5 FOR EACH OTHER.

12:09PM 6 DO YOU SEE THAT?

12:09PM 7 A. YES.

12:09PM 8 Q. AND THEN THERE IS SOME PLANS -- I'M SORRY, SOME DISCUSSION

12:09PM 9 ABOUT PLANS FOR THE DAY.

12:09PM 10 AND AT THE BOTTOM THERE'S A REQUEST FROM MR. BALWANI TO

12:09PM 11 "PLEASE GET CVS DONE THIS A.M. HAVE SCOTT AND CHRISTIAN IN

12:09PM 12 TRICORDER ALL MORNING AND TELL THEM WHAT CHANGES U WANT."

12:10PM 13 DO YOU SEE THAT?

12:10PM 14 A. YES.

12:10PM 15 Q. AND WHAT WAS TRICORDER IF YOU REMEMBER?

12:10PM 16 A. IT WAS THE NAME OF A CONFERENCE ROOM.

12:10PM 17 Q. LET'S LOOK AT PAGE 13.

12:10PM 18 HERE WE'RE IN NOVEMBER 2014. DO YOU SEE A TEXT FROM

12:10PM 19 MR. BALWANI TO MS. HOLMES MENTIONING A FULL MOON?

12:10PM 20 A. YES.

12:10PM 21 Q. AND MS. HOLMES WRITES WITH A SET OF GOALS OR A LIST OF

12:10PM 22 BULLET POINTS.

12:10PM 23 DO YOU SEE THAT?

12:10PM 24 A. YES.

12:10PM 25 Q. SHE SAYS, "TOTAL CONFIDENCE IN MYSELF BEST BUSINESS PERSON

12:10PM 1 OF THE YEAR.

12:10PM 2 "FOCUS.

12:10PM 3 "DETAILS EXCELLENT.

12:10PM 4 "DON'T GIVE WHAT ANYONE THINKS.

12:10PM 5 "ENGAGE EMPLOYEES IN MEETINGS BY STORIES AND MAKING IT

12:10PM 6 ABOUT THEM."

12:10PM 7 DO YOU SEE THAT?

12:10PM 8 A. YES.

12:10PM 9 Q. AND THEN AFTER SHE ASKS FOR A RESPONSE, MR. BALWANI

12:11PM 10 WRITES, "AWESOME. U R LISTENING AND PAYING ATTENTION."

12:11PM 11 DO YOU SEE THAT?

12:11PM 12 A. YES.

12:11PM 13 Q. AND IN 2014, APPROXIMATELY HOW OLD WAS MS. HOLMES?

12:11PM 14 MS. WALSH: OBJECTION.

12:11PM 15 THE COURT: THIS IS AS TO PERSONAL KNOWLEDGE, IF HE

12:11PM 16 HAS PERSONAL KNOWLEDGE?

12:11PM 17 MR. BOSTIC: YES.

12:11PM 18 THE COURT: YOU CAN ANSWER THE QUESTION.

12:11PM 19 THE WITNESS: APPROXIMATELY 30.

12:11PM 20 BY MR. BOSTIC:

12:11PM 21 Q. AND APPROXIMATELY HOW OLD WAS MR. BALWANI AT THAT TIME?

12:11PM 22 MS. WALSH: OBJECTION. RELEVANCE.

12:11PM 23 THE COURT: OVERRULED.

12:11PM 24 THE WITNESS: I DON'T KNOW SPECIFICALLY.

12:11PM 25 BY MR. BOSTIC:

12:11PM 1 Q. WHAT IS YOUR BEST ESTIMATE?

12:11PM 2 MS. WALSH: OBJECTION. FOUNDATION.

12:11PM 3 THE COURT: SUSTAINED AS TO THE FORM OF THE

12:11PM 4 QUESTION.

12:11PM 5 BY MR. BOSTIC:

12:11PM 6 Q. HOW ABOUT WHEN IT CAME TO BUSINESS EXPERIENCE, WHAT WAS

12:11PM 7 YOUR UNDERSTANDING AS TO HOW MUCH BUSINESS EXPERIENCE

12:11PM 8 MS. HOLMES HAD WHEN SHE FOUNDED THERANOS?

12:12PM 9 A. MY UNDERSTANDING WAS THAT THERANOS WAS THE EXTENT OF HER

12:12PM 10 BUSINESS EXPERIENCE.

12:12PM 11 Q. AND FROM WORKING WITH MR. BALWANI, DO YOU HAVE AN

12:12PM 12 UNDERSTANDING OF THE EXTENT OF HIS BUSINESS EXPERIENCE BEFORE

12:12PM 13 HE CAME TO THERANOS?

12:12PM 14 A. SUNNY HAD A VERY SUCCESSFUL CAREER.

12:12PM 15 Q. FINALLY, LET'S LOOK AT PAGE 14 OF THE EXHIBIT.

12:12PM 16 SO NOW WE'RE MOVING FORWARD IN TIME. YOU SEE NOW WE'RE IN

12:12PM 17 MAY OF 2015.

12:12PM 18 DO YOU SEE THAT?

12:12PM 19 A. YES.

12:12PM 20 Q. AND THERE ARE MORE TEXTS BETWEEN MS. HOLMES AND

12:12PM 21 MR. BALWANI DURING THIS TIME PERIOD EXPRESSING AFFECTION FOR

12:12PM 22 EACH OTHER.

12:12PM 23 DO YOU SEE THAT?

12:12PM 24 A. YES.

12:12PM 25 Q. AND THERE'S ALSO DISCUSSION OF THEIR WHEREABOUTS AND PLANS

12:13PM 1 FOR THE IMMEDIATE FUTURE.

12:13PM 2 DO YOU SEE THAT?

12:13PM 3 A. YES.

12:13PM 4 Q. OKAY. WE CAN PUT THAT ASIDE. I'D LIKE TO TALK ABOUT THE
12:13PM 5 CIRCUMSTANCES OF YOUR DEPARTURE FROM THE COMPANY AND THE
12:13PM 6 REASONS FOR IT.

12:13PM 7 DID YOU BECOME AWARE IN 2015 THAT THERE WAS GOING TO BE A
12:13PM 8 NEGATIVE ARTICLE PUBLISHED ABOUT THERANOS?

12:13PM 9 A. I BECAME AWARE THAT "THE WALL STREET JOURNAL" WAS GOING TO
12:13PM 10 WRITE A PIECE THAT WOULD NOT BE FAVORABLE.

12:13PM 11 Q. AND DID YOU FIND OUT ABOUT THAT BEFORE THE PIECE WAS
12:13PM 12 ACTUALLY PUBLISHED?

12:13PM 13 A. I BELIEVE IT WAS CLOSE TO THE TIME IT WAS.

12:13PM 14 Q. AND HOW DID YOU LEARN ABOUT THAT INCOMING ARTICLE, IF YOU
12:13PM 15 REMEMBER?

12:13PM 16 A. I -- AS PART OF MY ROLES AND RESPONSIBILITIES, I WORKED
12:14PM 17 WITH MARKETING AND COMMUNICATIONS, AND I BASICALLY HEARD RUMORS
12:14PM 18 THAT THIS WAS HAPPENING.

12:14PM 19 Q. SO OTHERS AT THE COMPANY KNEW AS WELL; IS THAT CORRECT?

12:14PM 20 A. I BELIEVE SO, YES.

12:14PM 21 Q. AT SOME POINT IN 2015, DID THE ARTICLE ACTUALLY COME OUT?

12:14PM 22 A. YES.

12:14PM 23 Q. DO YOU REMEMBER THE APPROXIMATE TIMING OF THE ARTICLE?

12:14PM 24 A. OCTOBER 2015.

12:14PM 25 Q. WHAT DO YOU REMEMBER, AND JUST AT A HIGH LEVEL, ABOUT THE

12:14PM 1 COMPANY'S RESPONSE TO THAT ARTICLE IN THE WEEKS AND MONTHS
12:14PM 2 AFTER IT WAS PUBLISHED?

12:14PM 3 A. I REMEMBER THAT THE COMPANY VEHEMENTLY DENIED THE CLAIMS
12:14PM 4 THAT WERE MADE IN "THE WALL STREET JOURNAL" ARTICLE ABOUT
12:14PM 5 THERANOS.

12:14PM 6 Q. AND OTHER THAN DENYING THE CLAIMS, DID THE COMPANY DO ANY
12:15PM 7 WORK TO TRY TO DISPROVE THOSE CLAIMS?

12:15PM 8 A. I RECALL THAT THE COMPANY CLAIMED THAT IT WOULD BE ABLE TO
12:15PM 9 PUT OUT DATA AND INFORMATION THAT WOULD PROVE ITS SCIENCE AND
12:15PM 10 TECHNOLOGY AND REFUTE THE CLAIMS FROM "THE WALL STREET JOURNAL"
12:15PM 11 ARTICLE.

12:15PM 12 Q. DID THERE COME A POINT IN TIME WHERE YOU DECIDED TO END
12:15PM 13 YOUR TIME AT THERANOS?

12:15PM 14 A. YES.

12:15PM 15 Q. AND WHY DID YOU MAKE THAT DECISION AND WHEN?

12:15PM 16 A. IN THE YEAR AFTER "THE WALL STREET JOURNAL" ARTICLES CAME
12:15PM 17 OUT AND THERANOS MADE THOSE CLAIMS THAT IT WOULD BE ABLE TO
12:15PM 18 REFUTE WHAT WAS SAID IN "THE WALL STREET JOURNAL" ARTICLES,
12:15PM 19 THERE WERE SEVERAL OPPORTUNITIES THAT THE COMPANY HAD TO DO
12:15PM 20 THAT, AND THEY WERE ALL UNSUCCESSFUL.

12:15PM 21 AND I ULTIMATELY REACHED THE CONCLUSION THAT THE REASON
12:15PM 22 THAT THOSE OPPORTUNITIES WERE UNSUCCESSFUL WAS BECAUSE THE
12:16PM 23 COMPANY COULD NOT PROVE ITS TECHNOLOGY AND WAS NOT CAPABLE OF
12:16PM 24 DOING IT AND WAS NEVER GOING TO BE ABLE TO DO THAT.

12:16PM 25 SO I LEFT THE COMPANY IN DECEMBER OF 2016.

12:16PM 1 Q. THANK YOU, MR. EDLIN.

12:16PM 2 NO FURTHER QUESTIONS AT THIS TIME.

12:16PM 3 THE COURT: MS. WALSH, DO YOU HAVE

12:16PM 4 CROSS-EXAMINATION?

12:16PM 5 MS. WALSH: I DO, YOUR HONOR.

12:17PM 6 (PAUSE IN PROCEEDINGS.)

12:17PM 7 MS. WALSH: MAY I APPROACH THE BENCH, YOUR HONOR?

12:17PM 8 THE COURT: YES.

12:17PM 9 MS. WALSH: (HANDING.)

12:17PM 10 MAY I APPROACH MR. EDLIN?

12:17PM 11 THE COURT: YES, PLEASE.

12:18PM 12 MS. WALSH: (HANDING.)

12:18PM 13 **CROSS-EXAMINATION**

12:18PM 14 BY MS. WALSH:

12:18PM 15 Q. GOOD AFTERNOON, MR. EDLIN.

12:18PM 16 A. GOOD AFTERNOON.

12:18PM 17 Q. MY NAME IS AMY WALSH, AND I REPRESENT MR. BALWANI.

12:18PM 18 I'M GOING TO ASK YOU A FEW QUESTIONS ABOUT YOUR TESTIMONY

12:18PM 19 LAST WEEK AND THIS MORNING. OKAY?

12:18PM 20 A. OKAY.

12:18PM 21 Q. OKAY. SO I FIRST WANT TO START WITH YOUR BACKGROUND.

12:18PM 22 YOU WERE EMPLOYED BY THERANOS FROM SEPTEMBER 2011 TO

12:18PM 23 DECEMBER 2016; IS THAT RIGHT?

12:18PM 24 A. CORRECT.

12:18PM 25 Q. OKAY. AND BEFORE YOU WORKED AT THERANOS, YOU WORKED AT A

12:18PM 1 FIRM CALLED TELSEY ADVISORY GROUP; IS THAT RIGHT?

12:18PM 2 A. YES.

12:18PM 3 Q. AND THAT WAS EQUITY ANALYST SHOP OR A FIRM; IS THAT

12:18PM 4 CORRECT?

12:18PM 5 A. RIGHT, EQUITY RESEARCH. I THINK I SAID EQUITY RESEARCH

12:18PM 6 FIRM.

12:18PM 7 Q. THANK YOU. I APOLOGIZE.

12:19PM 8 WHAT DID YOU DO FOR THAT FIRM?

12:19PM 9 A. I SUPPORTED THEIR INSTITUTIONAL SALES DESK AND SOME OF THE

12:19PM 10 RESEARCH ANALYSTS.

12:19PM 11 Q. OKAY. AND YOU WORKED THERE FOR ABOUT A YEAR; IS THAT

12:19PM 12 RIGHT?

12:19PM 13 A. IT WAS ABOUT TWO YEARS.

12:19PM 14 Q. OKAY. AND I TAKE IT THAT YOUR WORK AT THAT FIRM DIDN'T

12:19PM 15 HAVE ANYTHING TO DO WITH BLOOD TESTING; CORRECT?

12:19PM 16 A. CORRECT.

12:19PM 17 Q. AND IT WASN'T SCIENCE BASED; IS THAT RIGHT?

12:19PM 18 A. THAT'S RIGHT.

12:19PM 19 Q. OKAY. AND BEFORE YOU WORKED AT THAT FIRM, YOU GRADUATED

12:19PM 20 FROM DUKE UNIVERSITY; RIGHT?

12:19PM 21 A. CORRECT.

12:19PM 22 Q. AND YOU WERE A PUBLIC POLICY MAJOR; RIGHT?

12:19PM 23 A. YES.

12:19PM 24 Q. AND I THINK YOU ALSO SAID THAT YOU GOT A CERTIFICATE IN

12:19PM 25 MARKETS AND MANAGEMENT; CORRECT?

12:19PM 1 A. CORRECT.

12:19PM 2 Q. AND YOU DID NOT GET ANY DEGREES IN SCIENCE OR MATH FROM

12:19PM 3 DUKE; RIGHT?

12:19PM 4 A. CORRECT.

12:19PM 5 Q. AND YOU HAVE NO TRAINING IN HEMATOLOGY OR MICROBIOLOGY;

12:20PM 6 CORRECT?

12:20PM 7 A. CORRECT.

12:20PM 8 Q. OKAY. SO IS IT FAIR TO SAY THAT YOU WOULD NOT CONSIDER

12:20PM 9 YOURSELF A SCIENTIST?

12:20PM 10 A. THAT'S FAIR TO SAY.

12:20PM 11 Q. AND THAT WAS TRUE WHILE YOU WORKED AT THERANOS; RIGHT?

12:20PM 12 A. YES.

12:20PM 13 Q. OKAY. SO WHEN YOU WORKED AT THERANOS, YOU TOLD US THAT

12:20PM 14 YOU MANAGED DIFFERENT RELATIONSHIPS AT THERANOS; CORRECT?

12:20PM 15 A. CORRECT.

12:20PM 16 Q. OKAY. AND THOSE WERE WITH THE MILITARY; RIGHT?

12:20PM 17 A. RIGHT.

12:20PM 18 Q. PHARMACEUTICAL COMPANIES; CORRECT?

12:20PM 19 A. CORRECT.

12:20PM 20 Q. YOU SENT INFORMATION TO INVESTORS; RIGHT?

12:20PM 21 A. CORRECT.

12:20PM 22 Q. AND YOU TOLD US ABOUT FACILITATING THESE TECHNOLOGY

12:20PM 23 DEMONSTRATIONS; RIGHT?

12:20PM 24 A. CORRECT.

12:20PM 25 Q. AND YOU ALSO -- YOU JUST TESTIFIED THIS MORNING ABOUT

12:20PM 1 COORDINATING THERANOS'S WEBSITE AND MARKETING MATERIALS; IS
12:20PM 2 THAT RIGHT?

12:20PM 3 A. I WAS LESS INVOLVED IN THE WEBSITE.

12:21PM 4 BUT, YES, AS PART OF THE WORK THAT WE DID WITH CHIAT/DAY,
12:21PM 5 THERE WERE -- I WORKED ON THAT RELATIONSHIP ALONG WITH TWO
12:21PM 6 OTHER PRODUCT MANAGERS.

12:21PM 7 Q. OKAY. AND CHIAT/DAY WAS THE MARKETING FIRM THAT THERANOS
12:21PM 8 WAS WORKING WITH AT THE TIME?

12:21PM 9 A. CORRECT.

12:21PM 10 Q. AND WE'RE GOING TO COME BACK TO CHIAT/DAY LATER.

12:21PM 11 BUT THAT'S WHO THEY WERE; RIGHT?

12:21PM 12 A. RIGHT.

12:21PM 13 Q. OKAY. AND AS A PRODUCT MANAGER AT THERANOS, YOU WERE NOT,
12:21PM 14 OR YOU DIDN'T CONSIDER YOURSELF, AN EXPERT IN THERANOS'S
12:21PM 15 TECHNOLOGY AT THE TIME; RIGHT?

12:21PM 16 A. RIGHT.

12:21PM 17 Q. OKAY. YOU WEREN'T AN EXPERT IN THE CHEMISTRY OF HOW THE
12:21PM 18 ASSAYS WORKED; RIGHT?

12:21PM 19 A. RIGHT.

12:21PM 20 Q. AND YOU WERE NOT AN EXPERT IN THE SOFTWARE THAT RAN THE
12:21PM 21 MACHINES; RIGHT?

12:21PM 22 A. RIGHT.

12:21PM 23 Q. OR THE SOFTWARE THAT SHOWED ON THE USER INTERFACE OF THE
12:21PM 24 MACHINES; CORRECT?

12:21PM 25 A. CORRECT.

12:21PM 1 Q. AND YOU ALSO WERE NOT AN EXPERT IN THE HARDWARE, THE

12:22PM 2 ROBOTICS INSIDE THE MACHINE THAT OPERATED THE TESTS; CORRECT?

12:22PM 3 A. CORRECT.

12:22PM 4 Q. OKAY. OTHER TEAMS OF PEOPLE AT THERANOS WERE IN CHARGE OF

12:22PM 5 THOSE AREAS; RIGHT?

12:22PM 6 A. RIGHT.

12:22PM 7 Q. AND YOU -- AND WE'RE GOING TO TALK MORE ABOUT THIS, BUT

12:22PM 8 GENERALLY, YOU WENT TO THOSE TEAMS PERIODICALLY WHEN YOU NEEDED

12:22PM 9 INFORMATION RELATED TO THOSE SUBJECT AREAS; IS THAT FAIR?

12:22PM 10 A. YES.

12:22PM 11 Q. OKAY. YOU'VE ALSO TALKED ABOUT YOUR WORK WITH MS. HOLMES

12:22PM 12 VERSUS MR. BALWANI.

12:22PM 13 DO YOU REMEMBER THAT?

12:22PM 14 A. YES.

12:22PM 15 Q. AND YOU WORKED WITH BOTH OF THEM; CORRECT?

12:22PM 16 A. CORRECT.

12:22PM 17 Q. BUT I THINK YOU TESTIFIED THAT YOU WORKED MORE -- MUCH

12:22PM 18 MORE CLOSELY WITH MS. HOLMES; RIGHT?

12:22PM 19 A. RIGHT.

12:22PM 20 Q. THAN YOU DID WITH MR. BALWANI; CORRECT?

12:22PM 21 A. CORRECT.

12:22PM 22 Q. AND I THINK YOU SAID THAT THEY THEMSELVES WORKED CLOSELY

12:22PM 23 TOGETHER; RIGHT?

12:22PM 24 A. RIGHT.

12:22PM 25 Q. AT LEAST AS FAR AS YOU OBSERVED; RIGHT?

12:23PM 1 A. RIGHT.

12:23PM 2 Q. BUT THEY ALSO HAD DIFFERENT ROLES AT THE COMPANY; IS THAT

12:23PM 3 RIGHT?

12:23PM 4 A. THAT WAS MY UNDERSTANDING, YES.

12:23PM 5 Q. OKAY. AND MS. HOLMES'S ROLE RELATED TO THE SCIENCE OF THE

12:23PM 6 ASSAYS; IS THAT FAIR?

12:23PM 7 A. YES.

12:23PM 8 Q. AND SHE WAS MUCH MORE INVOLVED IN THE R&D LAB; CORRECT?

12:23PM 9 A. CORRECT.

12:23PM 10 Q. AND SHE'S THE ONE WHO HAD THE RELATIONSHIPS WITH THE

12:23PM 11 PHARMACEUTICAL COMPANIES; RIGHT?

12:23PM 12 A. RIGHT.

12:23PM 13 Q. AND SHE IS THE PERSON WHO HAD THE RELATIONSHIPS WITH THE

12:23PM 14 VARIOUS DIFFERENT MILITARY COMPONENTS; IS THAT RIGHT?

12:23PM 15 A. THAT'S RIGHT.

12:23PM 16 Q. AND, IN FACT, THE EMAILS, WE'LL LOOK AT THESE AGAIN, BUT

12:23PM 17 THE EMAILS THAT YOU HAD REGARDING THOSE MILITARY COMPONENTS

12:23PM 18 WERE PRIMARILY WITH HER; RIGHT?

12:23PM 19 A. CORRECT.

12:23PM 20 Q. OKAY. SHE WAS ALSO THE ONE WHO WAS MORE ENGAGED IN THE

12:24PM 21 PUBLIC RELATIONS CAMPAIGN FOR THERANOS; IS THAT RIGHT?

12:24PM 22 A. YES.

12:24PM 23 Q. AND SHE IS THE ONE WHO WORKED ON THE BRANDING OF THERANOS

12:24PM 24 WITH CHIAT/DAY; RIGHT?

12:24PM 25 A. YES.

12:24PM 1 Q. AND SHE DID WORK ON DESIGNING THE LOGO OF THERANOS;
12:24PM 2 CORRECT?
12:24PM 3 A. CORRECT.
12:24PM 4 Q. AND YOU TALKED ABOUT THE LOGO CHANGING FROM PERIOD TO
12:24PM 5 PERIOD.
12:24PM 6 SHE WAS THE ONE WHO WORKED MOST CLOSELY ON THAT; RIGHT?
12:24PM 7 A. RIGHT.
12:24PM 8 Q. OKAY. AND SHE WAS THE FACE OF THERANOS TO THE OUTSIDE
12:24PM 9 WORLD; IS THAT FAIR?
12:24PM 10 A. YES.
12:24PM 11 Q. SHE DID PRESS INTERVIEWS; CORRECT?
12:24PM 12 A. CORRECT.
12:24PM 13 Q. AND SHE APPEARED ON THE COVER OF MAGAZINES AND NEWSPAPERS;
12:24PM 14 RIGHT?
12:24PM 15 A. CORRECT.
12:24PM 16 Q. AND SHE DID A TED TALK; CORRECT?
12:24PM 17 A. IT WAS TED MED, BUT YES.
12:24PM 18 Q. TED MED. OKAY.
12:24PM 19 AND I THINK YOU ALSO SAID LAST WEEK THAT SHE WAS THE
12:24PM 20 PRIMARY PERSON MEETING WITH THE SO-CALLED "VIP'S" THAT CAME
12:24PM 21 INTO THE COMPANY; RIGHT?
12:24PM 22 A. RIGHT.
12:24PM 23 Q. AND I THINK YOU ALSO SAID THAT SHE WAS THE ONE WHO RAN
12:25PM 24 MOST OF THE DEMO MEETINGS; RIGHT?
12:25PM 25 A. RIGHT.

12:25PM 1 Q. AND SHE WAS THE ONE WHO GAVE MOST OF THE TOURS OF THE
12:25PM 2 FACILITIES; CORRECT?

12:25PM 3 A. RIGHT, RIGHT.

12:25PM 4 Q. OKAY. AND SO LET'S TURN TO MR. BALWANI'S AREA OF
12:25PM 5 CONCENTRATION.

12:25PM 6 HE WAS IN CHARGE OF OPERATIONS OF THE COMPANY; RIGHT?

12:25PM 7 A. RIGHT.

12:25PM 8 Q. AND HIS SPECIALTY WAS SOFTWARE, WASN'T IT?

12:25PM 9 A. THAT WAS MY UNDERSTANDING.

12:25PM 10 Q. HE WAS IN CHARGE OF SOFTWARE INVESTMENT; RIGHT?

12:25PM 11 A. YES.

12:25PM 12 Q. SOFTWARE DESIGN; CORRECT?

12:25PM 13 A. YES.

12:25PM 14 Q. THE LAB INFORMATION SYSTEM; RIGHT?

12:25PM 15 A. RIGHT.

12:25PM 16 Q. AND THAT'S WHERE ALL OF THE PATIENT DATA WAS KEPT;
12:25PM 17 CORRECT?

12:25PM 18 A. I BELIEVE SO.

12:25PM 19 Q. AND HE WAS INVOLVED IN DESIGNING, ALONG WITH A TEAM OF
12:25PM 20 OTHER PEOPLE, BUT DESIGNING THAT SYSTEM; RIGHT?

12:25PM 21 A. RIGHT.

12:25PM 22 Q. IN FACT, HE HAD A BACKGROUND IN SOFTWARE; RIGHT?

12:26PM 23 A. RIGHT.

12:26PM 24 Q. AND HE WORKED FOR MICROSOFT?

12:26PM 25 A. YES.

12:26PM 1 Q. AND THEN HE HAD HIS OWN STARTUP COMPANY WHICH HE SOLD
12:26PM 2 BEFORE HE CAME TO THERANOS; RIGHT?
12:26PM 3 A. RIGHT.
12:26PM 4 Q. AND HE WAS ALSO IN CHARGE AT THERANOS OF THE MANUFACTURING
12:26PM 5 OF THE DEVICES; RIGHT?
12:26PM 6 A. I DON'T KNOW EXACTLY.
12:26PM 7 Q. OKAY. BUT MR. BALWANI DID NOT HAVE A MEDICAL DEGREE;
12:26PM 8 RIGHT?
12:26PM 9 A. AS FAR AS I'M CONCERNED.
12:26PM 10 Q. AS FAR AS YOU KNOW; RIGHT?
12:26PM 11 A. YES.
12:26PM 12 Q. AND HE DIDN'T HAVE ANY TRAINING, AS FAR AS YOU'RE AWARE,
12:26PM 13 IN BIOSCIENCE; CORRECT?
12:26PM 14 A. AS FAR AS I UNDERSTAND, YES.
12:26PM 15 Q. AND AS FAR AS YOU'RE AWARE, HE DIDN'T PLAY A ROLE IN
12:26PM 16 DEVELOPING THOSE CHEMISTRIES THAT WENT INTO THE ACTUAL BLOOD
12:26PM 17 TESTS TO MAKE THEM WORK; RIGHT?
12:26PM 18 A. RIGHT.
12:26PM 19 Q. AND THAT WAS MS. HOLMES'S EXPERTISE, ALONG WITH OTHERS;
12:26PM 20 CORRECT?
12:26PM 21 A. CORRECT.
12:27PM 22 Q. SO YOU MENTIONED IN YOUR WORK AT THERANOS YOU RELIED ON
12:27PM 23 VARIOUS DIFFERENT SCIENTISTS IN THESE DIFFERENT GROUPS WITHIN
12:27PM 24 THE COMPANY; RIGHT?
12:27PM 25 A. RIGHT.

12:27PM 1 Q. AND SO WHEN YOU NEEDED INFORMATION, YOU CONSULTED WITH
12:27PM 2 THOSE PEOPLE FROM TIME TO TIME; IS THAT RIGHT?

12:27PM 3 A. RIGHT.

12:27PM 4 Q. AND WHEN THOSE SCIENTISTS GAVE YOU INFORMATION, YOU RELIED
12:27PM 5 ON IT; CORRECT?

12:27PM 6 A. YES.

12:27PM 7 Q. AND OFTEN YOU WOULD PASS THE INFORMATION FROM THEM TO
12:27PM 8 WHOEVER WAS ASKING FOR IT; CORRECT?

12:27PM 9 A. YES.

12:27PM 10 Q. OKAY. AND ONE OF THOSE SCIENTISTS WAS DR. DANIEL YOUNG.
12:27PM 11 DO YOU REMEMBER HIM?

12:27PM 12 A. YES.

12:27PM 13 Q. AND HE WAS IN CHARGE OF THE THERANOS SYSTEMS AND
12:27PM 14 COMPUTATIONAL BIOSCIENCES.

12:27PM 15 DO YOU REMEMBER THAT?

12:27PM 16 A. YES.

12:27PM 17 Q. ALL RIGHT. HE PLAYED A PROMINENT ROLE IN THE R&D LAB;
12:27PM 18 RIGHT?

12:27PM 19 A. I BELIEVE SO.

12:27PM 20 Q. AND HE WAS AN EXTREMELY KNOWLEDGEABLE PERSON, WAS HE NOT?

12:28PM 21 A. HE WAS.

12:28PM 22 Q. HE GRADUATED FROM M.I.T.; CORRECT?

12:28PM 23 A. YES.

12:28PM 24 Q. AND HE HAD VARIOUS DEGREES IN MECHANICAL ENGINEERING;
12:28PM 25 RIGHT?

12:28PM 1 A. YES.

12:28PM 2 Q. HE ALSO HAD WORKED IN THE BIOSCIENCES FIELD BEFORE HE CAME

12:28PM 3 TO THERANOS; RIGHT?

12:28PM 4 A. I DON'T KNOW THE SPECIFICS, BUT THAT WAS MY UNDERSTANDING.

12:28PM 5 Q. OKAY. AND YOU GENERALLY FOUND HIM, IN YOUR EXPERIENCE, TO

12:28PM 6 BE GENUINELY KNOWLEDGEABLE ABOUT THE THERANOS ASSAYS; CORRECT?

12:28PM 7 A. CORRECT.

12:28PM 8 Q. AND YOU HAD CONFIDENCE IN WHAT HE WAS TELLING YOU AT THE

12:28PM 9 TIME; RIGHT?

12:28PM 10 A. YES.

12:28PM 11 Q. OKAY. SO WHEN A QUESTION WOULD COME UP ABOUT THE SCIENCE

12:28PM 12 OR THE RESULTS OF A PARTICULAR ASSAY, YOU DEFERRED GENERALLY TO

12:28PM 13 DR. YOUNG, DIDN'T YOU?

12:28PM 14 A. I DID.

12:28PM 15 Q. AND WE'RE GOING TO LOOK AT SOME EMAILS REGARDING THE

12:29PM 16 DEMOS.

12:29PM 17 IT WAS DR. YOUNG'S JOB TO ANALYZE THOSE TEST RESULTS;

12:29PM 18 RIGHT?

12:29PM 19 A. YES.

12:29PM 20 Q. AND HE WOULD LOOK AT THE DATA; RIGHT?

12:29PM 21 A. RIGHT.

12:29PM 22 Q. AND HE WOULD MAKE CERTAIN JUDGMENTS BASED ON THE SCIENCE;

12:29PM 23 CORRECT?

12:29PM 24 A. CORRECT.

12:29PM 25 Q. AND HE WOULD MAKE DECISIONS ABOUT WHAT SHOULD BE REPORTED

12:29PM 1 OUT TO THE VISITOR WHO GOT THE DEMONSTRATION; IS THAT RIGHT?

12:29PM 2 A. THAT'S RIGHT.

12:29PM 3 Q. AND YOU REFERRED TO HIM ENTIRELY IN THAT DECISION MAKING
12:29PM 4 PROCESS; CORRECT?

12:29PM 5 A. YES.

12:29PM 6 Q. OKAY. NOW, YOU MENTIONED YOU INTERACTED WITH DIFFERENT
12:29PM 7 TEAMS AT THERANOS. ONE OF THOSE TEAMS WAS THE ASSAY
12:29PM 8 DEVELOPMENT TEAM.

12:29PM 9 DO YOU REMEMBER THAT?

12:29PM 10 A. YES.

12:29PM 11 Q. AND THEN THERE WAS AN ASSAY --

12:29PM 12 A. THERE WERE A COUPLE -- THERE WERE SEVERAL OF THEM, YES.

12:29PM 13 Q. RIGHT. THERE WERE SEVERAL OF THEM; CORRECT?

12:29PM 14 A. YES.

12:29PM 15 Q. AND THEY CORRESPONDED GENERALLY TO THE TYPE OF ASSAYS THAT
12:29PM 16 THEY WORKED ON; IS THAT FAIR?

12:30PM 17 A. YES.

12:30PM 18 Q. AND SO THERE WAS A SEPARATE ASSAY DEVELOPMENT TEAM FOR
12:30PM 19 IMMUNOASSAYS, FOR EXAMPLE?

12:30PM 20 A. RIGHT.

12:30PM 21 Q. FOR CYTOMETRY; RIGHT?

12:30PM 22 A. RIGHT.

12:30PM 23 Q. FOR GENERAL CHEMISTRY; CORRECT?

12:30PM 24 A. CORRECT.

12:30PM 25 Q. AND FOR THIS TEST CALLED NUCLEIC ACID AMPLIFICATION;

12:30PM 1 RIGHT?

12:30PM 2 A. RIGHT.

12:30PM 3 Q. AND YOU WERE AWARE AT THE TIME THAT MANY DIFFERENT ASSAYS

12:30PM 4 WERE BEING DEVELOPED WITHIN THERANOS; RIGHT?

12:30PM 5 A. RIGHT.

12:30PM 6 Q. AND, IN FACT, YOU SAW MANY OF THOSE ASSAY INVESTMENT

12:30PM 7 REPORTS DESCRIBING HOW THE ASSAYS WERE DEVELOPED; RIGHT?

12:30PM 8 A. CORRECT.

12:30PM 9 Q. AND THOSE REPORTS CONTAINED A LOT OF SCIENTIFIC AND

12:30PM 10 TECHNICAL DATA; RIGHT?

12:30PM 11 A. RIGHT.

12:30PM 12 Q. AND THEY WERE FAIRLY LONG?

12:30PM 13 A. YES.

12:30PM 14 Q. AND THERE WAS ONE FOR EACH INDIVIDUAL ASSAY THAT THERANOS

12:30PM 15 DEVELOPED; CORRECT?

12:30PM 16 MR. BOSTIC: OBJECTION. FOUNDATION.

12:30PM 17 THE COURT: CAN YOU LAY A FOUNDATION FOR HIS

12:30PM 18 KNOWLEDGE OF THAT.

12:30PM 19 MS. WALSH: SURE.

12:30PM 20 Q. MR. EDLIN, YOU SAW MANY OF THOSE ASSAY DEVELOPMENT

12:31PM 21 REPORTS; RIGHT?

12:31PM 22 A. YES.

12:31PM 23 Q. AND GENERALLY, DID A REPORT RELATE TO ONE ASSAY OR MORE

12:31PM 24 THAN ONE ASSAY?

12:31PM 25 A. I RECALL THAT EACH REPORT RELATED TO ONE ASSAY.

12:31PM 1 Q. SO LET ME HAVE YOU TURN IN YOUR BINDER TO EXHIBIT 7239.

12:31PM 2 A. YES.

12:31PM 3 Q. DO YOU HAVE THAT IN FRONT OF YOU?

12:31PM 4 A. YES.

12:31PM 5 Q. OKAY. IS THAT AN EMAIL BETWEEN -- TO ELIZABETH HOLMES?

12:32PM 6 DO YOU SEE THAT?

12:32PM 7 A. YES.

12:32PM 8 Q. AND IT'S FROM A FELLOW NAMED CHINMAY PANGARKAR?

12:32PM 9 A. YES.

12:32PM 10 Q. AND WHO WAS CHINMAY PANGARKAR?

12:32PM 11 A. HE WAS THE LEAD OF THE CYTOMETRY ASSAY DEVELOPMENT TEAM.

12:32PM 12 Q. OKAY. AND YOU'RE ON COPY; RIGHT?

12:32PM 13 A. YES.

12:32PM 14 Q. AND DR. YOUNG IS ON COPY; CORRECT?

12:32PM 15 A. YES.

12:32PM 16 Q. AND THE DATE OF THE EMAIL IS JUNE 21ST, 2012.

12:32PM 17 DO YOU SEE THAT?

12:32PM 18 A. YES.

12:32PM 19 MS. WALSH: YOUR HONOR, THE GOVERNMENT -- I'M SORRY,

12:32PM 20 THE DEFENSE OFFERS EXHIBIT 7329.

12:32PM 21 MR. BOSTIC: HEARSAY.

12:32PM 22 (PAUSE IN PROCEEDINGS.)

12:32PM 23 MS. WALSH: I CAN LAY A FOUNDATION, YOUR HONOR.

12:32PM 24 THE COURT: SURE.

12:32PM 25 BY MS. WALSH:

12:32PM 1 Q. SO, MR. EDLIN, JUST LIKE MR. BOSTIC ASKED YOU ON DIRECT
12:32PM 2 EXAMINATION, DID YOU USE EMAIL IN THE REGULAR COURSE OF
12:32PM 3 THERANOS BUSINESS THAT YOU DID FOR THE COMPANY?
12:32PM 4 A. YES.
12:32PM 5 Q. AND WAS IT YOUR REGULAR PRACTICE TO USE EMAIL?
12:33PM 6 A. YES.
12:33PM 7 Q. AND DID IT HELP YOU CONDUCT OR DO YOUR JOB AT THERANOS TO
12:33PM 8 BE ABLE TO COMMUNICATE THROUGH EMAIL?
12:33PM 9 A. YES.
12:33PM 10 Q. AND DID OTHER EMPLOYEES THAT YOU INTERACTED WITH IN YOUR
12:33PM 11 JOB COMMUNICATE WITH YOU THROUGH EMAIL?
12:33PM 12 A. YES.
12:33PM 13 Q. AND TO DO YOUR JOB, WAS IT IMPORTANT FOR EVERYONE ON THE
12:33PM 14 EMAIL TO BE AS ACCURATE AS POSSIBLE IN COMMUNICATING THE
12:33PM 15 INFORMATION?
12:33PM 16 A. YES.
12:33PM 17 Q. AND WERE THERANOS EMAILS PRESERVED SO THAT LATER ON THEY
12:33PM 18 COULD BE USED AND CHECKED AND READ BY OTHERS?
12:33PM 19 A. YES.
12:33PM 20 MS. WALSH: YOUR HONOR, WE OFFER 7239.
12:33PM 21 MR. BOSTIC: SAME OBJECTION AS TO THIS PARTICULAR
12:33PM 22 EMAIL.
12:33PM 23 THE COURT: I'LL OVERRULE THE OBJECTION. IT'S
12:33PM 24 ADMITTED.
12:33PM 25 (DEFENDANT'S EXHIBIT 7239 WAS RECEIVED IN EVIDENCE.)

12:33PM 1 THE COURT: AND IT MAY BE PUBLISHED.

12:34PM 2 BY MS. WALSH:

12:34PM 3 Q. OKAY. SO LET'S TAKE A LOOK AT 7239.

12:34PM 4 YOU MENTIONED THAT CHINMAY PANGARKAR WAS A SENIOR

12:34PM 5 SCIENTIST IN THE COMPUTATIONAL BIOSCIENCES IN CHARGE OF THE

12:34PM 6 CYTOMETRY ASSAYS; RIGHT?

12:34PM 7 A. RIGHT.

12:34PM 8 Q. AND HE WAS A PH.D.; CORRECT?

12:34PM 9 A. CORRECT.

12:34PM 10 Q. AND HE'S IN THIS EMAIL SAYING "HI ELIZABETH:

12:34PM 11 "ASSAYS DEVELOPMENT AND CLINICAL STUDY SUMMARY REPORTS FOR

12:34PM 12 ALL CYTOMETRY ASSAYS ARE LOCATED AT THE FOLLOWING LOCATION."

12:34PM 13 AND THEN THERE'S A LINK TO THE REPORTS.

12:34PM 14 DO YOU SEE THAT?

12:34PM 15 A. YES.

12:34PM 16 Q. AND THEN DR. PANGARKAR SAYS TO YOU AND MS. HOLMES AND

12:34PM 17 DR. YOUNG, "SOME COMMENTS TO GO WITH THESE REPORTS:

12:34PM 18 "REPORTS HAVE BEEN WRITTEN TO DEMONSTRATE.

12:34PM 19 "THAT THERE IS SOUND SCIENCE AND METHOD DEVELOPMENT BEHIND

12:34PM 20 OUR ASSAYS.

12:34PM 21 "THAT OUR ASSAYS GIVE RESULTS THAT AGREE WITH PREDICATE

12:34PM 22 METHODS WITHIN CLIA PRESCRIBED LIMITS."

12:35PM 23 DO YOU SEE THAT?

12:35PM 24 A. YES.

12:35PM 25 Q. AND PREDICATE METHODS IS A TEST RUNNING ON COMMERCIAL

12:35PM 1

MACHINES.

12:35PM 2

IS THAT ANOTHER WAY OF SAYING THAT?

12:35PM 3

A. I BELIEVE SO.

12:35PM 4

Q. AND CLIA IS -- CORRESPONDS TO CLINICAL LAB REQUIREMENTS;

12:35PM 5

IS THAT RIGHT?

12:35PM 6

A. I BELIEVE SO.

12:35PM 7

Q. OKAY. WE CAN TAKE THAT DOWN.

12:35PM 8

OKAY. SO YOU INTERACTED WITH THE ASSAY DEVELOPMENT TEAMS

12:35PM 9

AND THE SOFTWARE TEAMS; IS THAT RIGHT?

12:35PM 10

A. ON OCCASIONS.

12:35PM 11

Q. AND ALSO THE HARDWARE TEAMS; CORRECT?

12:35PM 12

A. YES.

12:35PM 13

Q. OKAY. AND YOU TESTIFIED LAST WEEK THAT THERE WERE --

12:35PM 14

THERE WAS A GENERAL PRACTICE OF RESTRICTING INFORMATION WITHIN

12:36PM 15

THERANOS.

12:36PM 16

DO YOU REMEMBER THAT?

12:36PM 17

A. YES.

12:36PM 18

Q. OKAY. BUT YOU WERE ABLE TO DO YOUR JOB AND COMMUNICATE

12:36PM 19

WITH PEOPLE ACROSS DIFFERENT AREAS OF THE COMPANY, WEREN'T YOU?

12:36PM 20

A. YES.

12:36PM 21

Q. WHEN YOU NEEDED INFORMATION, YOU COULD GO TO THEM AND ASK

12:36PM 22

THEM A QUESTION; RIGHT?

12:36PM 23

A. YES.

12:36PM 24

Q. AND THEY WOULD GIVE YOU AN ANSWER; RIGHT?

12:36PM 25

A. YES.

12:36PM 1 Q. AND YOU FELT LIKE YOU COULD RELY ON THEIR ANSWERS;

12:36PM 2 CORRECT?

12:36PM 3 A. CORRECT.

12:36PM 4 Q. AND YOU UNDERSTOOD AT THE TIME THAT THERANOS WAS

12:36PM 5 DEVELOPING VALUABLE TECHNOLOGY; RIGHT?

12:36PM 6 A. YES.

12:36PM 7 Q. IT WAS A RELATIVELY NEW COMPANY AT THE TIME; RIGHT?

12:36PM 8 A. RIGHT.

12:36PM 9 Q. AND NEW IN THE BLOOD TESTING SPACE; CORRECT?

12:36PM 10 A. CORRECT.

12:36PM 11 Q. AND IT WAS DEVELOPING ITS OWN CHEMISTRIES TO TEST BLOOD;

12:36PM 12 RIGHT?

12:36PM 13 A. I'M NOT SURE IF I HAD THAT UNDERSTANDING AT THE TIME, BUT

12:36PM 14 I DID KNOW THAT IT WAS DEVELOPING ITS OWN TECHNOLOGY.

12:37PM 15 Q. OKAY. AND IT WAS DEVELOPING ITS OWN SOFTWARE; RIGHT?

12:37PM 16 A. RIGHT.

12:37PM 17 Q. AND WRITING SOFTWARE FROM SCRATCH; CORRECT?

12:37PM 18 A. RIGHT.

12:37PM 19 Q. AND IT WAS ALSO BUILDING ITS OWN HARDWARE; RIGHT?

12:37PM 20 A. RIGHT.

12:37PM 21 Q. AND ALSO DEVELOPING PROCESSES TO RUN THE BLOOD TESTING

12:37PM 22 MACHINES.

12:37PM 23 IS THAT FAIR?

12:37PM 24 A. YES.

12:37PM 25 Q. AND WHEN I SAY "PROCESSES," I'M REFERRING TO PROTOCOLS.

12:37PM 1 THERE WERE CERTAIN PROTOCOLS FOR RUNNING DIFFERENT MACHINES; IS

12:37PM 2 THAT RIGHT?

12:37PM 3 A. CAN YOU SPECIFY KIND OF WHICH MACHINES AND IN WHICH

12:37PM 4 CONTEXT THAT'S FOR?

12:37PM 5 Q. SURE.

12:37PM 6 FOR THERANOS'S TECHNOLOGY THAT IT WAS DEVELOPING, IT WAS

12:37PM 7 DEVELOPING HARDWARE; RIGHT?

12:37PM 8 A. RIGHT.

12:37PM 9 Q. SOFTWARE; CORRECT?

12:37PM 10 A. RIGHT.

12:37PM 11 Q. THE ASSAY ITSELF; RIGHT?

12:37PM 12 A. RIGHT.

12:37PM 13 Q. AND THAT'S WHAT THE ASSAY DEVELOPMENT TEAMS WERE

12:38PM 14 DEVELOPING?

12:38PM 15 A. RIGHT.

12:38PM 16 Q. BUT ALSO THE PROCESSES TO PUT ALL OF THOSE THINGS

12:38PM 17 TOGETHER; RIGHT?

12:38PM 18 A. RIGHT.

12:38PM 19 Q. IN ORDER TO MAKE THE MACHINE WORK IN A UNIFIED WAY;

12:38PM 20 CORRECT?

12:38PM 21 A. CORRECT.

12:38PM 22 Q. OKAY. AND THERANOS OBTAINED PATENTS ON MUCH OF ITS WORK;

12:38PM 23 RIGHT?

12:38PM 24 A. THAT WAS MY UNDERSTANDING.

12:38PM 25 Q. AND THE PATENTS PROTECTED THE INTELLECTUAL PROPERTY OF

12:38PM 1 THERANOS; RIGHT?

12:38PM 2 A. I DON'T KNOW THE SPECIFICS, BUT THAT'S, OF COURSE, WHAT
12:38PM 3 PATENTS DO.

12:38PM 4 Q. GENERALLY?

12:38PM 5 A. RIGHT.

12:38PM 6 Q. AND YOU'RE AWARE THAT THERANOS HELD MANY PATENTS; IS THAT
12:38PM 7 RIGHT?

12:38PM 8 A. YES.

12:38PM 9 Q. AND FOR IDEAS THAT IT WAS DEVELOPING THAT IT DIDN'T HAVE
12:38PM 10 PATENTS FOR, THERE WAS CONCERN WITHIN THE COMPANY THAT HAD TO
12:38PM 11 PROTECT THOSE IDEAS; RIGHT?

12:38PM 12 MR. BOSTIC: OBJECTION. CALLS FOR SPECULATION.
12:38PM 13 LACKS FOUNDATION.

12:38PM 14 THE COURT: COULD YOU ASK THAT IN A DIFFERENT WAY?

12:38PM 15 MS. WALSH: SURE.

12:39PM 16 Q. WELL, MR. EDLIN, YOU TESTIFIED THAT THERE WAS SOME
12:39PM 17 RESTRICTION ON THE FLOW OF INFORMATION WITHIN THERANOS;
12:39PM 18 CORRECT?

12:39PM 19 A. CORRECT.

12:39PM 20 Q. AND ISN'T IT YOUR UNDERSTANDING THAT ONE OF THE REASONS
12:39PM 21 THERE WAS RESTRICTION ON THE FLOW OF INFORMATION IS BECAUSE THE
12:39PM 22 COMPANY WANTED TO PROTECT ITS IDEAS AND INTELLECTUAL PROPERTY?

12:39PM 23 MR. BOSTIC: SAME OBJECTION.

12:39PM 24 THE COURT: YOU'RE ASKING IF HE HAS PERSONAL
12:39PM 25 KNOWLEDGE OF THIS?

12:39PM 1 MS. WALSH: JUST HIS UNDERSTANDING.

12:39PM 2 THE COURT: YOU CAN ANSWER THE QUESTION, SIR, BASED
12:39PM 3 ON YOUR PERSONAL KNOWLEDGE.

12:39PM 4 THE WITNESS: THAT WAS MY UNDERSTANDING.

12:39PM 5 BY MS. WALSH:

12:39PM 6 Q. IT WAS?

12:39PM 7 A. YES.

12:39PM 8 Q. AND ONE OF THE REASONS THAT WAS THE CASE, WAS BECAUSE
12:39PM 9 THERANOS HAD COMPETITORS IN THE BLOOD TESTING MARKET; RIGHT?

12:39PM 10 A. THAT WAS ONE OF THE REASONS.

12:39PM 11 Q. RIGHT. THERE WERE TWO VERY LARGE COMPANIES THAT WERE
12:39PM 12 THERANOS'S COMPETITORS; RIGHT?

12:39PM 13 A. I'M NOT SURE AT THE TIME TO WHEN I LEARNED THAT, BUT, YES,
12:40PM 14 TWO INCUMBENTS IN THE -- I'M NOT SURE WHEN I -- I DON'T
12:40PM 15 REMEMBER.

12:40PM 16 THE COURT: DID YOU SAY TWO INCUMBENTS IN THE LAB
12:40PM 17 INDUSTRY?

12:40PM 18 THE WITNESS: YES.

12:40PM 19 MS. WALSH: THANK YOU.

12:40PM 20 Q. AND THE TWO INCUMBENTS WERE LABCORP AND QUEST; RIGHT?

12:40PM 21 A. RIGHT.

12:40PM 22 Q. AND THEY WERE TWO LARGE BLOOD TESTING COMPANIES; CORRECT?

12:40PM 23 A. YES.

12:40PM 24 Q. AND THEY OCCUPIED MOST OF THE MARKET IN BLOOD TESTING AT
12:40PM 25 THE TIME; IS THAT RIGHT?

12:40PM 1 A. I DON'T KNOW THE SPECIFICS.

12:40PM 2 Q. OKAY. DID YOU HAVE AN UNDERSTANDING AT THE TIME WHEN YOU

12:40PM 3 WERE WORKING AT THERANOS, THAT THAT WAS THE CASE?

12:40PM 4 A. I DON'T RECALL THE EXACT PERCENTAGE OF THE MARKET.

12:40PM 5 Q. OKAY. HOW ABOUT JUST GENERALLY, THEY OCCUPIED MOST OF THE

12:40PM 6 MARKET?

12:40PM 7 A. I THINK MOST WOULD REQUIRE A MAJORITY, I JUST DON'T

12:41PM 8 REMEMBER THE EXACT PERCENTAGE.

12:41PM 9 Q. OKAY. ALL RIGHT. SO I WANT TO SHIFT GEARS NOW TO

12:41PM 10 WALGREENS.

12:41PM 11 YOU HAD A ROLE IN INTERACTING WITH WALGREENS, DID YOU NOT,

12:41PM 12 WHILE YOU WERE AT THERANOS?

12:41PM 13 A. I DID.

12:41PM 14 Q. AND YOUR ROLE, I THINK YOU TESTIFIED THAT IT INVOLVED

12:41PM 15 OPERATIONALIZING THE ROLLOUT; RIGHT?

12:41PM 16 A. RIGHT.

12:41PM 17 Q. AND YOUR ROLE IN CONNECTION WITH WALGREENS RELATED TO THE

12:41PM 18 PATIENT EXPERIENCE AT WALGREENS; IS THAT FAIR?

12:41PM 19 A. YES.

12:41PM 20 Q. AND PART OF WHAT YOU DID, WAS YOU PROVIDED THE TRAINING

12:41PM 21 FOR PHLEBOTOMISTS IN WALGREENS; CORRECT?

12:42PM 22 A. NOT ALL OF THE TRAINING, BUT I WAS INVOLVED WITH THE

12:42PM 23 TRAINING, YES.

12:42PM 24 Q. WHAT WERE YOU INVOLVED WITH?

12:42PM 25 A. I WORKED WITH THE REST OF MY TEAM AND ALSO WITH OTHER

12:42PM 1 PERSONNEL WITHIN THERANOS TO DEVELOP A TRAINING PROGRAM THAT I,
12:42PM 2 ALONG WITH OTHER MEMBERS OF THE PRODUCT MANAGEMENT TEAM,
12:42PM 3 PRESENTED TO, IT WAS AT FIRST A GROUP OF WALGREENS TECHNICIANS,
12:42PM 4 AND WE DEVELOPED THE TRAINING MODEL WHERE WE WOULD TRAIN A
12:42PM 5 GROUP OF TECHNICIANS, AND THEN THEY THEMSELVES WOULD BE ABLE TO
12:42PM 6 TRAIN A GROUP OF TECHNICIANS.

12:42PM 7 Q. OKAY. AND SO YOU AND OTHERS DEVELOPED THAT TRAINING OF
12:42PM 8 TRAIN THE TRAINER; IS THAT RIGHT?

12:42PM 9 A. RIGHT, IN CONSULTATION WITH OTHER EXPERTS WITHIN THE
12:42PM 10 COMPANY.

12:42PM 11 Q. AND YOU ALSO TRAINED THE TECHNICIANS, OR THE PERSON WHO
12:43PM 12 TRAINED THE TECHNICIANS, ON THE SOFTWARE APPS THAT WERE
12:43PM 13 ASSOCIATED WITH THERANOS; IS THAT RIGHT?

12:43PM 14 A. I PERSONALLY DON'T RECALL DELIVERING THAT TRAINING, BUT I
12:43PM 15 DO RECALL THAT THAT WAS PART OF THE TRAINING.

12:43PM 16 Q. OKAY. AND THAT SOFTWARE RELATED TO CHECKING THE PATIENT
12:43PM 17 IN AT WALGREENS; RIGHT?

12:43PM 18 A. RIGHT.

12:43PM 19 Q. CHECKING THEIR INSURANCE; CORRECT?

12:43PM 20 A. CORRECT.

12:43PM 21 Q. EVALUATING THEIR LAB FORMS AT THE TIME; RIGHT?

12:43PM 22 A. RIGHT.

12:43PM 23 Q. AND ALSO, I THINK YOU MENTIONED TRAINING THE TECHNICIANS
12:43PM 24 ON THE APPS TO HELP THEM UNDERSTAND WHICH TUBES THEY NEEDED TO
12:43PM 25 HELP COLLECT THE BLOOD; IS THAT RIGHT?

12:43PM 1 A. RIGHT.

12:43PM 2 Q. AND THERE WERE VARIOUS DIFFERENT TUBES THAT THEY COULD

12:43PM 3 USE; RIGHT?

12:43PM 4 A. RIGHT.

12:43PM 5 Q. SO THEY HAD TO KNOW WHICH ONES TO USE?

12:43PM 6 A. CORRECT.

12:43PM 7 Q. SO LET'S JUST TALK MORE BROADLY ABOUT THE

12:44PM 8 THERANOS-WALGREENS RELATIONSHIP. ALL RIGHT?

12:44PM 9 A. UH-HUH.

12:44PM 10 Q. THERANOS PARTNERED WITH WALGREENS TO BRING ITS BLOOD

12:44PM 11 TESTING SERVICES INTO WALGREENS; CORRECT?

12:44PM 12 A. YES.

12:44PM 13 Q. AND THE GOVERNMENT ASKED YOU QUESTIONS ABOUT THE

12:44PM 14 WALGREENS-THERANOS RELATIONSHIP IN 2013.

12:44PM 15 DO YOU REMEMBER THAT?

12:44PM 16 A. YES.

12:44PM 17 Q. RIGHT BEFORE THE ROLLOUT; RIGHT?

12:44PM 18 A. YES.

12:44PM 19 Q. BUT, IN FACT, WALGREENS AND THERANOS HAD A RELATIONSHIP, A

12:44PM 20 PARTNERSHIP YEARS BEFORE THE ROLLOUT; RIGHT?

12:44PM 21 A. YES.

12:44PM 22 Q. AND DO YOU REMEMBER THAT THE LAUNCH, THE WALGREENS LAUNCH

12:44PM 23 WAS SCHEDULED FOR 2012 AND IT GOT POSTPONED?

12:44PM 24 DO YOU RECALL THAT?

12:44PM 25 A. I RECALL THAT IT WAS POSTPONED.

12:44PM 1 Q. OKAY. AND THE ORIGINAL IDEA IN THE PARTNERSHIP BETWEEN
12:45PM 2 THERANOS AND WALGREENS WAS TO PUT THERANOS'S DEVICES IN
12:45PM 3 WALGREENS.

12:45PM 4 DO YOU REMEMBER THAT?

12:45PM 5 A. YES.

12:45PM 6 Q. AND THAT WAS GOING TO BE CALLED A POINT OF SERVICE MODEL;
12:45PM 7 RIGHT?

12:45PM 8 A. I'M FAMILIAR WITH THE TERM, I'M JUST NOT FAMILIAR WITH HOW
12:45PM 9 IT WAS DESCRIBED AT THAT TIME.

12:45PM 10 Q. OKAY. BUT THE ORIGINAL IDEA WAS TO PUT THE DEVICES IN
12:45PM 11 WALGREENS; RIGHT?

12:45PM 12 A. RIGHT.

12:45PM 13 Q. OKAY. AND AT A CERTAIN POINT IN TIME THAT CHANGED; RIGHT?

12:45PM 14 A. RIGHT.

12:45PM 15 Q. AND IT CHANGED FOR VARIOUS DIFFERENT REASONS, SOME RELATED
12:45PM 16 TO FDA APPROVAL THAT MIGHT BE REQUIRED ON THE DEVICE TO MOVE IT
12:45PM 17 FROM THERANOS INTO THE WALGREENS STORES; RIGHT?

12:45PM 18 MR. BOSTIC: LACKS FOUNDATION. CALLS FOR
12:45PM 19 SPECULATION.

12:45PM 20 THE COURT: CAN YOU LAY A FOUNDATION FOR THAT
12:45PM 21 QUESTION?

12:45PM 22 MS. WALSH: SURE.

12:46PM 23 Q. SO THE MODEL CHANGED FROM PUTTING DEVICES IN THE STORES;
12:46PM 24 RIGHT?

12:46PM 25 A. RIGHT.

12:46PM 1 Q. AND IT CHANGED FOR A NUMBER OF DIFFERENT REASONS.

12:46PM 2 DO YOU REMEMBER ANY OF THE REASONS?

12:46PM 3 MR. BOSTIC: CALLS FOR HEARSAY.

12:46PM 4 THE COURT: CAN YOU ASK IF HE WAS INVOLVED WITH ANY
12:46PM 5 OF THOSE?

12:46PM 6 MS. WALSH: SURE.

12:46PM 7 Q. MR. EDLIN, WERE YOU INVOLVED IN THE EARLIER RELATIONSHIP
12:46PM 8 BETWEEN THERANOS AND WALGREENS?

12:46PM 9 A. WHEN I JOINED THE COMPANY, THERE WAS AN EXISTING
12:46PM 10 RELATIONSHIP WITH WALGREENS AND THAT WAS -- THAT RELATIONSHIP
12:46PM 11 WAS MY PRIMARY, YOU KNOW, ROLES AND RESPONSIBILITIES AT THE
12:46PM 12 COMPANY.

12:47PM 13 SO I WAS INVOLVED WITH THAT RELATIONSHIP AS EARLY AS 2011
12:47PM 14 WHEN I JOINED THE COMPANY.

12:47PM 15 Q. OKAY. AND YOU'RE AWARE -- NOT TO BE REPETITIVE -- BUT THE
12:47PM 16 ORIGINAL IDEA WAS TO PUT THE DEVICES IN THE WALGREENS; RIGHT?

12:47PM 17 A. RIGHT.

12:47PM 18 Q. AND AT A CERTAIN POINT IN TIME THAT CHANGED; RIGHT?

12:47PM 19 A. RIGHT.

12:47PM 20 Q. AND THE PARTIES, WALGREENS AND THERANOS, AGREED THAT THEY
12:47PM 21 WERE GOING TO CHANGE HOW THIS ROLLOUT WAS GOING TO OCCUR;
12:47PM 22 RIGHT?

12:47PM 23 A. THERE WAS A MUTUAL AGREEMENT GIVEN THAT THAT IS WHAT
12:47PM 24 HAPPENED, BUT I WAS NOT APART OF THOSE CONVERSATIONS.

12:47PM 25 Q. UNDERSTOOD.

12:47PM 1 AND THE CHANGE THAT OCCURRED WAS THAT THERANOS WAS NOW,
12:47PM 2 INSTEAD OF PUTTING DEVICES IN WALGREENS, THERANOS WAS GOING TO
12:47PM 3 COLLECT BLOOD SAMPLES IN WALGREENS, SHIP THEM BACK TO THERANOS,
12:47PM 4 AND PROCESS THE TESTS IN THERANOS.

12:47PM 5 DO YOU REMEMBER THAT?

12:47PM 6 A. YES.

12:47PM 7 Q. AND THAT CHANGE AND THAT PHASE OF SHIPPING SAMPLES BACK TO
12:48PM 8 THERANOS, THAT WAS REFERRED TO AS PHASE I.

12:48PM 9 DO YOU REMEMBER THAT?

12:48PM 10 A. YES.

12:48PM 11 Q. OKAY. AND PUTTING THE MACHINES IN THE STORES, THAT WAS
12:48PM 12 GOING TO BE PHASE II; RIGHT?

12:48PM 13 A. I DON'T, I DON'T RECALL.

12:48PM 14 Q. OKAY. BUT THAT WAS THE NEXT PHASE; IS THAT FAIR? WHETHER
12:48PM 15 IT'S CALLED PHASE II OR SOMETHING ELSE, THAT WAS THE NEXT
12:48PM 16 PHASE, PUTTING THE DEVICES IN THE STORES?

12:48PM 17 A. I'M NOT SURE WHETHER THAT IDEA ENDURED OR IF THAT WAS --
12:48PM 18 CONTINUED TO ALWAYS BE THE PLAN. I'M NOT SURE.

12:48PM 19 Q. OKAY. WELL, IT WAS THE GOAL, THOUGH, OF THERANOS TO
12:49PM 20 ULTIMATELY PUT DEVICES IN WALGREENS STORES; RIGHT?

12:49PM 21 A. I THINK THAT WAS THE INITIAL GOAL.

12:49PM 22 I'M NOT SURE WHETHER, AFTER THERE WAS THE CHANGE, IF THAT
12:49PM 23 WAS STILL THE GOAL OR IF THAT CHANGED OR IF IT CHANGED
12:49PM 24 PERMANENTLY.

12:49PM 25 Q. OKAY. AND PART OF THE GOAL ALSO, PUTTING ASIDE WALGREENS,

12:49PM 1 WAS TO PUT DEVICES IN OTHER LOCATIONS OUTSIDE OF THERANOS.

12:49PM 2 DO YOU REMEMBER THAT?

12:49PM 3 A. YES.

12:49PM 4 Q. PLACES LIKE HOSPITALS; RIGHT?

12:49PM 5 A. RIGHT.

12:49PM 6 Q. DOCTOR OFFICES; CORRECT?

12:49PM 7 A. RIGHT.

12:49PM 8 Q. ULTIMATELY PUTTING DEVICES IN MILITARY HOSPITALS; RIGHT?

12:49PM 9 A. RIGHT.

12:49PM 10 Q. OKAY. BUT THIS WALGREENS ROLLOUT THAT OCCURRED IN 2013,

12:49PM 11 THAT WAS LIMITED TO THIS PHASE I MODEL; CORRECT?

12:49PM 12 A. THAT BECAME THE WHOLE MODEL.

12:49PM 13 Q. SO IN YOUR EXPERIENCE, WHAT HAPPENED WAS THE WALGREENS --

12:50PM 14 THE TESTING THAT OCCURRED IN 2013 WITH THE SHIPMENTS COMING

12:50PM 15 INTO THERANOS --

12:50PM 16 A. RIGHT.

12:50PM 17 Q. -- THAT WAS THE MODEL; RIGHT?

12:50PM 18 A. THAT BECAME THE MODEL. AND, YOU KNOW, I DON'T RECALL

12:50PM 19 WORKING ON A DIFFERENT MODEL.

12:50PM 20 SO THAT BECAME THE MODEL, AND THAT ESSENTIALLY WAS HOW THE

12:50PM 21 WALGREENS OPERATION CONTINUED TO PROCEED.

12:50PM 22 Q. AND SO YOU PERSONALLY DIDN'T WORK ON ANY PHASE II MODEL;

12:50PM 23 RIGHT?

12:50PM 24 A. RIGHT.

12:50PM 25 Q. OR PUTTING DEVICES IN STORES; RIGHT?

12:50PM 1 A. RIGHT.

12:50PM 2 THE WALGREENS OPERATION, YOU KNOW, STOPPED AFTER I THINK

12:50PM 3 55 STORES WERE SET UP, WHICH WAS WITH RESPECT TO THE OVERALL,

12:51PM 4 THE OVERALL NUMBER OF WALGREENS STORES THAT TESTING WOULD

12:51PM 5 POTENTIALLY BE AVAILABLE AT, WHICH I THINK WAS OVER 8,000.

12:51PM 6 FIFTY-FIVE WAS EARLY ON IN THAT PROCESS.

12:51PM 7 Q. UNDERSTOOD.

12:51PM 8 BUT THE GOAL WAS TO PUT -- TO OPEN THERANOS SERVICE

12:51PM 9 CENTERS IN WALGREENS ACROSS THE COUNTRY; RIGHT?

12:51PM 10 A. RIGHT.

12:51PM 11 Q. OKAY. AND ARE YOU AWARE THAT FOR TESTING PATIENT SAMPLES,

12:51PM 12 WHEN WALGREENS OPENED IN SEPTEMBER OF 2013, THE SERIES 3

12:51PM 13 DEVICES WERE THE DEVICES THAT WERE USED FOR TESTING PATIENT

12:51PM 14 SAMPLES?

12:51PM 15 A. I'M NOT SURE IF I KNEW IF THE DEVICES WERE USED TO TEST

12:51PM 16 PATIENT SAMPLES, BUT AT THAT TIME I RECALL THAT THOSE WERE THE

12:52PM 17 DEVICES THAT WERE PLANNED TO INITIALLY BE IN THE WALGREENS

12:52PM 18 STORES.

12:52PM 19 Q. OKAY. AND YOU TESTIFIED ABOUT NEXT GENERATION DEVICES AS

12:52PM 20 WELL; RIGHT?

12:52PM 21 A. RIGHT.

12:52PM 22 Q. AND THAT WAS THE 4 SERIES DEVICE; CORRECT?

12:52PM 23 A. CORRECT.

12:52PM 24 Q. AND YOU SAID THAT THERE WERE THREE VARIATIONS OF THE

12:52PM 25 4 SERIES; RIGHT?

12:52PM 1 A. RIGHT.

12:52PM 2 Q. THERE WAS THE 4.0 MONOBAY; CORRECT?

12:52PM 3 A. CORRECT.

12:52PM 4 Q. AND THE 4S; CORRECT?

12:52PM 5 A. CORRECT.

12:52PM 6 Q. AND THAT WAS A SMALLER VERSION OF THE MONOBAY; CORRECT?

12:52PM 7 A. CORRECT.

12:52PM 8 Q. AND THE MINILAB; RIGHT?

12:52PM 9 A. RIGHT.

12:52PM 10 Q. AND THE MINILAB WAS KIND OF NEXT GENERATION, WASN'T IT?

12:52PM 11 A. I DON'T THINK I HAD THAT UNDERSTANDING AT THE TIME.

12:53PM 12 I THOUGHT MY UNDERSTANDING WAS THAT BOTH OF THE DEVICES

12:53PM 13 WERE THE NEXT GENERATION.

12:53PM 14 SO I DON'T THINK I WAS TOLD THAT -- WHAT THE SEQUENCE

12:53PM 15 WOULD BE IN TERMS OF WHEN THEY'RE AVAILABLE.

12:53PM 16 Q. OKAY. BUT THE MINILAB WAS SEVERAL DIFFERENT MONOBAYS ON

12:53PM 17 TOP OF EACH OTHER; RIGHT?

12:53PM 18 A. THE MONOBAY BLADE, WHICH IS KIND OF THE SHELF OF

12:53PM 19 COMPONENTS, YES, ON TOP OF EACH OTHER.

12:53PM 20 Q. RIGHT. AND THE MINILAB WOULD BE ABLE TO RUN MANY

12:53PM 21 DIFFERENT TESTS ALL AT ONCE; RIGHT?

12:53PM 22 A. THAT'S WHAT IT WAS DESIGNED TO DO.

12:53PM 23 Q. RIGHT.

12:53PM 24 A. RIGHT.

12:53PM 25 Q. AND THE MONOBAY COULD NOT RUN AS MANY TESTS AT THE SAME

12:53PM 1 TIME; RIGHT?

12:53PM 2 A. CORRECT.

12:53PM 3 Q. OKAY.

12:53PM 4 SO LET'S PULL UP, IF WE COULD, YOUR HONOR, EXHIBIT 5388,

12:54PM 5 WHICH IS ALREADY IN EVIDENCE?

12:54PM 6 THE COURT: YES.

12:54PM 7 BY MS. WALSH:

12:54PM 8 Q. DO YOU SEE THAT, MR. EDLIN?

12:54PM 9 A. YES.

12:54PM 10 Q. AND THAT'S A PHOTO OF THE 3 SERIES EDISON; RIGHT?

12:54PM 11 A. YES.

12:54PM 12 Q. OKAY. AND IF YOU CAN TURN IN YOUR BINDER TO 7747.

12:54PM 13 DO YOU SEE THAT?

12:54PM 14 A. I DO.

12:54PM 15 Q. AND WHAT DO YOU RECOGNIZE THAT TO BE?

12:54PM 16 A. A 4S.

12:54PM 17 Q. A 4S DEVICE, THERANOS'S 4S DEVICE?

12:54PM 18 A. YES, I BELIEVE SO.

12:54PM 19 MS. WALSH: OKAY. YOUR HONOR, WE OFFER 7747.

12:55PM 20 MR. BOSTIC: NO OBJECTION.

12:55PM 21 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

12:55PM 22 (DEFENDANT'S EXHIBIT 7747 WAS RECEIVED IN EVIDENCE.)

12:55PM 23 BY MS. WALSH:

12:55PM 24 Q. OKAY. SO THAT'S THE 7747 DEVICE.

12:55PM 25 AND THAT WAS THE DEVICE THAT YOU USED IN YOUR WORK WITH

12:55PM 1 THE MILITARY; RIGHT?

12:55PM 2 A. THERE WAS A SHIFT TO THAT DEVICE, AND THAT WAS THE
12:55PM 3 INTENDED DEVICE THAT WAS -- THAT WOULD BE INTENDED TO BE USED
12:55PM 4 WITH THE MILITARY.

12:55PM 5 Q. RIGHT.

12:55PM 6 BUT IN YOUR INTERACTIONS WITH THE MILITARY, YOU SAID YOU
12:55PM 7 SHIPPED SOME DEVICES TO MACDILL AIRFORCE BASE; RIGHT?

12:55PM 8 A. YES.

12:55PM 9 Q. AND THEN THERE WAS SOME FEEDBACK FROM THE MILITARY THAT
12:55PM 10 THE DEVICE NEEDED TO BE SMALLER; RIGHT?

12:55PM 11 DO YOU REMEMBER THAT?

12:55PM 12 A. YES, BUT THAT'S NOT EXACTLY THE SEQUENCE OF EVENTS.

12:55PM 13 Q. OKAY. SO IS THIS 4S DEVICE, THOUGH, THE SMALLER VERSION
12:56PM 14 OF THE 4 SERIES DEVICE?

12:56PM 15 A. YES.

12:56PM 16 Q. OKAY. AND THAT WAS A PRODUCT OF YOUR INTERACTION AND WORK
12:56PM 17 WITH THE MILITARY; RIGHT?

12:56PM 18 A. WHEN -- I DON'T KNOW.

12:56PM 19 WHEN I WORKED WITH THE MILITARY, THERE WAS A REQUEST FOR A
12:56PM 20 SMALLER, LIGHTER DEVICE, AND WHEN I CONVEYED THAT INFORMATION
12:56PM 21 TO ELIZABETH, IT SEEMED THAT SHE HAD -- WAS ALREADY AWARE OF A
12:56PM 22 VERSION OF -- AWARE OF A MODEL THAT WAS SIMILAR TO THE 4S.

12:56PM 23 SO I DON'T KNOW IF THAT SPECIFICALLY WAS THE CAUSE AND
12:56PM 24 EFFECT. LIKE, IT SEEMED TO ME THAT THERE WAS ALREADY A
12:57PM 25 PROTOTYPE OR AN IDEA OF THIS BEFORE MY WORK WITH THE MILITARY.

12:57PM 1 Q. OKAY. BUT REGARDLESS OF WHEN THE IDEA CAME INTO BEING,
12:57PM 2 THIS WAS THE DEVICE THAT YOU USED IN CONNECTION WITH THE
12:57PM 3 MILITARY? THIS IS WHAT YOU WERE WORKING ON; RIGHT?
12:57PM 4 A. THIS IS WHAT THE SCIENTISTS AND THE ENGINEERING TEAMS WERE
12:57PM 5 WORKING ON, YES.
12:57PM 6 Q. SURE. AND YOU WORKED ON IT, TOO, JUST IN A DIFFERENT
12:57PM 7 ROLE; RIGHT?
12:57PM 8 A. I DON'T KNOW IF I WOULD SAY I WORKED ON IT.
12:57PM 9 Q. OKAY. YOU HAD SOME INVOLVEMENT WITH THIS DEVICE, DID YOU
12:57PM 10 NOT?
12:57PM 11 A. YES.
12:57PM 12 Q. OKAY. AND THAT INVOLVEMENT RELATED TO THERANOS'S
12:57PM 13 RELATIONSHIPS WITH THE MILITARY; IS THAT FAIR?
12:57PM 14 A. YES.
12:57PM 15 Q. OKAY. CAN YOU TURN IN YOUR BINDER TO 20186.
12:58PM 16 DO YOU SEE THAT?
12:58PM 17 A. YES.
12:58PM 18 Q. AND DO YOU RECOGNIZE WHAT THAT IS?
12:58PM 19 A. YES.
12:58PM 20 Q. AND WHAT IS IT?
12:58PM 21 A. 4S AND ITS COMPONENTS.
12:58PM 22 MS. WALSH: OKAY. YOUR HONOR, WE OFFER 20186.
12:58PM 23 MR. BOSTIC: NO OBJECTION.
12:59PM 24 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.
12:59PM 25 (DEFENDANT'S EXHIBIT 20186 WAS RECEIVED IN EVIDENCE.)

12:59PM 1 BY MS. WALSH:

12:59PM 2 Q. OKAY. SO, MR. EDLIN, THIS IS A DIAGRAM; RIGHT?

12:59PM 3 A. YES.

12:59PM 4 Q. AND YOU SAID IT WAS OF THE 4S?

12:59PM 5 A. YES.

12:59PM 6 Q. OKAY. ON THE TOP IT SAYS MINILAB.

12:59PM 7 IS THE MINILAB JUST A GROUPING OF THIS DEVICE STACKED UP

12:59PM 8 ONE ON TOP OF THE OTHER?

12:59PM 9 A. NO, I DON'T BELIEVE SO.

12:59PM 10 Q. OKAY. AND HOW IS THIS DEVICE DIFFERENT FROM THE MINILAB?

12:59PM 11 A. SO THIS IS -- THIS IS AN IMAGE OF A 4S. IT WAS RENAMED

12:59PM 12 MINILAB FOR THE PURPOSE OF A PARTICULAR PRESENTATION IN 2015.

01:00PM 13 MY UNDERSTANDING AT THAT TIME WAS THAT THE DEVICE THAT WAS

01:00PM 14 PREVIOUSLY NAMED THE MINILAB WAS NO LONGER IN PRODUCTION.

01:00PM 15 Q. OKAY. BUT THIS WAS A NEXT GENERATION DEVICE; RIGHT?

01:00PM 16 A. CORRECT.

01:00PM 17 Q. OKAY. AND YOU SEE ALL OF THE COMPONENTS ON THIS EXHIBIT?

01:00PM 18 A. CORRECT.

01:00PM 19 Q. AND IT HAD A MATERIAL HANDLING ROBOT.

01:00PM 20 DO YOU SEE THAT?

01:00PM 21 A. YES.

01:00PM 22 Q. A CENTRIFUGE ON THE RIGHT SIDE; RIGHT?

01:00PM 23 A. RIGHT.

01:00PM 24 Q. A CYTOMETER; RIGHT?

01:00PM 25 A. RIGHT.

01:00PM 1 Q. THE CARTRIDGE IS ON THE BOTTOM WHERE THE BLOOD SAMPLE
01:00PM 2 WOULD GO; CORRECT?

01:00PM 3 A. RIGHT.

01:00PM 4 Q. AND SO ALL OF THESE COMPONENTS WERE BUILT AND PUT INTO
01:00PM 5 THIS MACHINE; CORRECT?

01:00PM 6 A. I'M NOT SURE. I DON'T KNOW IF EVERY SINGLE COMPONENT
01:01PM 7 COULD EXIST IN THE MACHINE AT THE SAME TIME.

01:01PM 8 Q. OKAY. BUT YOUR UNDERSTANDING WAS THIS MACHINE HAD
01:01PM 9 DIFFERENT COMPONENTS TO BE ABLE TO TEST DIFFERENT FAMILIES OF
01:01PM 10 ASSAYS, RIGHT, NOT JUST ONE FAMILY?

01:01PM 11 A. RIGHT.

01:01PM 12 Q. OKAY. WE CAN TAKE THIS DOWN.

01:01PM 13 ALL RIGHT. I WANT TO SHIFT GEARS NOW TO DEMOS. YOU
01:01PM 14 TESTIFIED LAST WEEK QUITE A BIT ABOUT TECH DEMOS; RIGHT?

01:01PM 15 A. RIGHT.

01:01PM 16 Q. AND YOU SAID ESSENTIALLY THAT YOU WERE THE COORDINATOR FOR
01:01PM 17 THE LOGISTICS OF THE DEMOS; CORRECT?

01:01PM 18 A. CORRECT.

01:01PM 19 Q. YOU MADE SURE THE ROOM WAS SET UP WITH THE MACHINES THAT
01:01PM 20 WERE REQUESTED; RIGHT?

01:01PM 21 A. RIGHT.

01:01PM 22 Q. YOU MADE SURE THE ENGINEERS HAD BROUGHT THOSE MACHINES
01:01PM 23 INTO THE ROOM AT THE RIGHT TIME; RIGHT?

01:01PM 24 A. RIGHT.

01:02PM 25 Q. AND YOU WORKED WITH OTHER PEOPLE TO PREPARE FOR THE DEMO;

01:02PM 1 CORRECT?

01:02PM 2 A. CORRECT.

01:02PM 3 Q. YOU WORKED WITH THE ASSAY TEAM ON THE DEMOS; RIGHT?

01:02PM 4 A. TO COORDINATE, YES.

01:02PM 5 Q. TO COORDINATE, SURE.

01:02PM 6 A. RIGHT.

01:02PM 7 Q. THE ASSAY TEAMS HELPED YOU WHEN YOU NEEDED HELP FROM THEM;

01:02PM 8 RIGHT?

01:02PM 9 A. YES.

01:02PM 10 Q. OKAY. AND SAME WITH THE HARDWARE TEAM; RIGHT?

01:02PM 11 A. RIGHT.

01:02PM 12 Q. AND ALSO THE SAME WITH THE SOFTWARE TEAM; RIGHT?

01:02PM 13 A. CORRECT.

01:02PM 14 Q. AND THERE WERE OTHER SCIENTISTS WHO, IF YOU NEEDED THEIR

01:02PM 15 HELP, THEY WOULD HELP PARTICIPATE AND SET UP THIS DEMO; RIGHT?

01:02PM 16 A. RIGHT.

01:02PM 17 Q. AND SOMETIMES THERE WERE, YOU KNOW, 10 TO 15 DIFFERENT

01:02PM 18 SCIENTISTS WORKING AND SETTING UP THE DEMOS; IS THAT FAIR?

01:02PM 19 A. THAT'S FAIR.

01:02PM 20 Q. AND COMING BACK TO DR. DANIEL YOUNG, HE ALSO WAS SOMEONE

01:02PM 21 WHO PARTICIPATED AND HELPED IN THE DEMO PROCESS; RIGHT?

01:02PM 22 A. YES.

01:02PM 23 Q. AND AS YOU TESTIFIED, HE ULTIMATELY REVIEWED AND APPROVED

01:03PM 24 ANY TEST RESULTS; RIGHT?

01:03PM 25 A. RIGHT.

01:03PM 1 Q. AND NOT ALL DEMONSTRATIONS WERE THE SAME; RIGHT?

01:03PM 2 A. RIGHT.

01:03PM 3 Q. AND SOME YOU UNDERSTOOD OCCURRED IN THERANOS WHICH YOU

01:03PM 4 TESTIFIED ABOUT; RIGHT?

01:03PM 5 A. RIGHT.

01:03PM 6 Q. AND SOME OCCURRED OUTSIDE OF THERANOS; RIGHT?

01:03PM 7 A. RIGHT.

01:03PM 8 Q. AND I THINK WE SAW ONE OF THOSE?

01:03PM 9 A. RIGHT.

01:03PM 10 Q. WE'LL SEE MORE.

01:03PM 11 AND IN THE ONES OUTSIDE OF THERANOS, MS. HOLMES MIGHT

01:03PM 12 TRAVEL TO THOSE DEMOS; RIGHT?

01:03PM 13 A. RIGHT.

01:03PM 14 Q. AND YOU SOMETIMES TRAVELLED TO THOSE; CORRECT?

01:03PM 15 A. SOMETIMES, YES.

01:03PM 16 Q. AND THE DEMOS ALSO COULD BE DIFFERENTIATED BECAUSE --

01:03PM 17 WITHDRAWN.

01:03PM 18 THE DEMOS ALSO HAD DIFFERENT PURPOSES; CORRECT?

01:03PM 19 A. THAN? OH, DIFFERENT DEMOS RESPECTIVE TO ONE ANOTHER?

01:03PM 20 Q. LET ME MAKE IT MORE CLEAR.

01:04PM 21 SOMETIMES DEMOS WERE JUST SO PEOPLE COULD SEE THE SOFTWARE

01:04PM 22 AND THE TECHNOLOGY; RIGHT?

01:04PM 23 A. CORRECT.

01:04PM 24 Q. THEY DIDN'T WANT TO GET THEIR BLOOD DRAWN; RIGHT?

01:04PM 25 A. RIGHT.

01:04PM 1 Q. THEY DIDN'T WANT TO GET A FINGER PRICK; RIGHT?

01:04PM 2 A. RIGHT, RIGHT.

01:04PM 3 Q. AND OTHER DEMOS MIGHT BE TO SOMEONE WHO DID WANT TO

01:04PM 4 EXPERIENCE FINGERSTICK, THEY WONDERED WHAT IT FELT LIKE; RIGHT?

01:04PM 5 A. RIGHT.

01:04PM 6 Q. AND THEY WANTED TO SEE HOW THE PROCESS WORKED; RIGHT?

01:04PM 7 A. RIGHT.

01:04PM 8 Q. AND OTHER DEMOS WERE BOTH; CORRECT?

01:04PM 9 A. CORRECT.

01:04PM 10 Q. SO LET'S TURN -- ACTUALLY, IF YOU COULD TURN IN YOUR

01:04PM 11 BINDER TO 7243.

01:05PM 12 A. OKAY.

01:05PM 13 Q. SO IS THAT AN EMAIL FROM MS. HOLMES TO DR. YOUNG COPYING

01:05PM 14 YOU?

01:05PM 15 A. YES.

01:05PM 16 Q. AND THE DATE IS AUGUST 1ST, 2012; RIGHT?

01:05PM 17 A. YES.

01:05PM 18 Q. AND IT RELATES TO A DEMO; CORRECT?

01:05PM 19 A. YES.

01:05PM 20 MS. WALSH: YOUR HONOR, WE OFFER 7243.

01:05PM 21 MR. BOSTIC: NO OBJECTION.

01:05PM 22 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

01:05PM 23 (DEFENDANT'S EXHIBIT 7243 WAS RECEIVED IN EVIDENCE.)

01:05PM 24 BY MS. WALSH:

01:05PM 25 Q. OKAY. SO LET'S GO TO THE BOTTOM EMAIL FIRST IN TIME.

01:05PM 1 MS. HOLMES IS EMAILING DR. YOUNG, AND YOU'RE NOT COPIED ON
01:05PM 2 THIS, JULY 31ST, 2012.

01:05PM 3 AND SHE SAYS, "DO WE HAVE A COUPLE MINILABS THAT ARE FULLY
01:05PM 4 ASSEMBLED WITH FUNCTIONAL SCREENS/ELECTRONICS THAT ARE EASY TO
01:05PM 5 SHOW A CLIENT TOMORROW MID-DAY?"

01:05PM 6 DO YOU SEE THAT?

01:05PM 7 A. YES.

01:05PM 8 Q. AND SHE'S REFERRING TO NEXT GENERATION TECHNOLOGY; RIGHT?

01:06PM 9 A. YES.

01:06PM 10 Q. AND THIS IS 2012, SO IT'S REALLY NEXT GENERATION; RIGHT?

01:06PM 11 A. RIGHT.

01:06PM 12 Q. OKAY. DR. YOUNG RESPONDS, "YES, WE HAVE FULLY FUNCTIONAL
01:06PM 13 MINILABS. I WILL MAKE SURE THE DISPLAY IS READY AS WELL. DO
01:06PM 14 YOU WANT THIS IN THE CONFERENCE ROOM?

01:06PM 15 "ALSO, DO YOU WANT ANY TESTS RUN IN THE MACHINE, OR JUST
01:06PM 16 TO HAVE IT POWERED UP WITH THE DISPLAY SHOWING SOMETHING
01:06PM 17 INTERESTING?"

01:06PM 18 AND SHE SAYS, "WE CAN PUT THEM IN AN INTERVIEW ROOM.
01:06PM 19 YES -- IF WE CAN EASILY HAVE THEM READY TO ACCEPT CARTRIDGES WE
01:06PM 20 SHOULD. ALSO YES ON THE SCREEN... WE SHOULD NOT DO A LOT OF
01:06PM 21 EXTRA WORK FOR THIS THOUGH."

01:06PM 22 AND THEN DR. YOUNG RESPONDS, "OK, I'LL GET THIS PREPARED.
01:06PM 23 "RIGHT NOW, WE ARE NOT READY TO RUN WHOLE BLOOD SAMPLES IN
01:06PM 24 THIS DEVICE."
01:06PM 25 DO YOU SEE THAT?

01:06PM 1 A. YES.

01:06PM 2 Q. AND THEN MS. HOLMES'S RESPONSE IS "WE'RE NOT RUNNING

01:06PM 3 SAMPLES -- JUST DEMONSTRATING THE HARDWARE."

01:07PM 4 DO YOU SEE THAT?

01:07PM 5 A. YES.

01:07PM 6 Q. AND THIS IS AN EXAMPLE WHERE YOU'RE REALLY SHOWING THE

01:07PM 7 MACHINE, THE HARDWARE, AND HOW IT WORKS WITHOUT RUNNING A

01:07PM 8 SAMPLE; CORRECT?

01:07PM 9 A. CORRECT.

01:07PM 10 Q. OKAY. OKAY. LET'S TALK ABOUT THESE IN CONNECTION WITH

01:07PM 11 THE DEMO APP AND YOU TALKED ABOUT THIS LAST WEEK; CORRECT?

01:07PM 12 A. RIGHT.

01:07PM 13 Q. SO THERANOS HAD DEVELOPED A LOT OF SOFTWARE FOR THESE

01:07PM 14 MACHINES; CORRECT?

01:07PM 15 A. CORRECT.

01:07PM 16 Q. ESPECIALLY FOR THE NEXT GENERATION MACHINES; RIGHT?

01:07PM 17 A. CORRECT.

01:07PM 18 Q. AND THERANOS HAD DEVELOPED A LOT OF DIFFERENT APPS FOR

01:07PM 19 DIFFERENT SCENARIOS AND USES FOR THE MACHINE.

01:07PM 20 IS THAT FAIR?

01:07PM 21 A. I WAS AWARE OF A FEW. I'M NOT SURE HOW MANY ADDITIONAL

01:08PM 22 APPS WERE DEVELOPED.

01:08PM 23 Q. OKAY. BUT THERE WERE SOME; RIGHT?

01:08PM 24 A. YES.

01:08PM 25 Q. OKAY. AND I THINK YOU TESTIFIED LAST WEEK THAT IT WAS

01:08PM 1 KIND OF LIKE AN IPHONE OR A SMART PHONE WHERE YOU COULD SEE

01:08PM 2 DIFFERENT APPS ON THE SCREEN; RIGHT?

01:08PM 3 A. I THINK I REFERRED TO THE INTUITIVENESS AND SIMPLE SCREEN

01:08PM 4 OF AN IPHONE APP, BUT I DON'T RECALL BEING ABLE TO SEE MULTIPLE

01:08PM 5 APPS AS YOU CAN ON A PHONE SELECTING A DIFFERENT APP TO USE.

01:08PM 6 Q. OKAY. SO LET'S TURN THEN TO IN YOUR BINDER TO 20538.

01:09PM 7 A. OKAY.

01:09PM 8 Q. AND TAKE A LOOK AT THE EMAIL AND THE ATTACHED EXHIBIT.

01:09PM 9 A. OKAY.

01:09PM 10 Q. AND PARTICULARLY LOOK AT PAGE 30 ON THE EXHIBIT.

01:10PM 11 A. OKAY.

01:10PM 12 Q. IS THAT THE -- ONE OF THE SCREENS THAT WOULD APPEAR ON THE

01:10PM 13 DEVICE THAT SHOWED THE USER INTERFACE WITH THE DIFFERENT APPS?

01:10PM 14 A. I DON'T HAVE A RECOLLECTION OF SEEING THIS ON A NEXT

01:10PM 15 GENERATION DEVICE.

01:10PM 16 I DO RECALL SEEING SOMETHING SIMILAR ON A 3.0 SERIES

01:10PM 17 EARLIER IN MY TIME AT THERANOS.

01:10PM 18 Q. OKAY. AND TAKE A LOOK AT THE PAGES 7 THROUGH 13.

01:11PM 19 A. OKAY.

01:11PM 20 Q. DO YOU RECOGNIZE THOSE AS THE SCREENS A USER MIGHT SEE IF

01:11PM 21 THEY PRESS THE USER DIARY ON THE SCREEN?

01:11PM 22 A. I DON'T RECOGNIZE THIS.

01:11PM 23 Q. OKAY. SO IT WAS JUST PAGE 30, AND YOU RECOGNIZE PAGE 30

01:11PM 24 AS ON THE 3.0 SERIES; IS THAT RIGHT?

01:11PM 25 A. RIGHT.

01:11PM 1 Q. OKAY.

01:11PM 2 YOUR HONOR, WE OFFER PAGE 30 OF 20538?

01:11PM 3 MR. BOSTIC: NO OBJECTION TO THAT PAGE, YOUR HONOR.

01:11PM 4 THE COURT: PAGE 30 OF 20538 IS ADMITTED, AND IT MAY

01:11PM 5 BE PUBLISHED.

01:11PM 6 (DEFENDANT'S EXHIBIT 20538, PAGE 30 WAS RECEIVED IN

01:12PM 7 EVIDENCE.)

01:12PM 8 BY MS. WALSH:

01:12PM 9 Q. OKAY. MR. EDLIN, YOU SAID YOU RECOGNIZE THIS ON THE 3.0

01:12PM 10 SERIES; RIGHT?

01:12PM 11 A. RIGHT.

01:12PM 12 Q. AND THIS WAS THE HOME SCREEN OF THAT DEVICE; RIGHT?

01:12PM 13 A. UM, THIS WAS NOT THE MOST COMMON HOME SCREEN THAT I SAW,

01:12PM 14 BUT I DO REMEMBER SEEING A HOME SCREEN THAT RESEMBLED THIS.

01:12PM 15 Q. OKAY. AND WHAT WAS THE MOST COMMON HOME SCREEN THAT YOU

01:12PM 16 SAW?

01:12PM 17 A. I RECALL IT JUST SAID THERANOS ON IT.

01:12PM 18 Q. OKAY. ALL RIGHT.

01:12PM 19 BUT YOU DO RECALL SEEING THIS SCREEN AT SOME POINT; RIGHT?

01:12PM 20 A. I DON'T KNOW ABOUT THIS SPECIFIC SCREEN, BUT IT DOES

01:12PM 21 RESEMBLE -- IT DOES RESEMBLE A SCREEN THAT I DO REMEMBER

01:12PM 22 SEEING.

01:12PM 23 Q. OKAY. AND THERE ARE VARIOUS DIFFERENT BUTTONS OR SQUARES

01:12PM 24 THAT YOU CAN PUSH ON THE SCREEN; RIGHT?

01:12PM 25 A. RIGHT.

01:12PM 1 Q. AND THE SCREEN WAS SUCH THAT YOU COULD TOUCH IT, IT WAS A
01:13PM 2 TOUCHSCREEN --

01:13PM 3 A. YES.

01:13PM 4 Q. -- AND IT WOULD BRING YOU TO A NEXT OR A NEW MENU; RIGHT?

01:13PM 5 A. IT WOULD ADVANCE THE APP BASED ON WHAT YOU SELECTED.

01:13PM 6 Q. OKAY. AND SO IF YOU PRESSED FOOD DIARY, FOR EXAMPLE, IT
01:13PM 7 MIGHT BRING YOU TO ANOTHER SET OF -- ANOTHER SCREEN RELATED TO
01:13PM 8 THE FOOD DIARY; IS THAT RIGHT?

01:13PM 9 A. I DON'T HAVE FAMILIARITY WITH ANYTHING BEYOND JUST THE
01:13PM 10 SCREEN.

01:13PM 11 Q. OKAY. AND I REALIZE, MR. EDLIN, IT'S BEEN ALMOST A DECADE
01:13PM 12 SINCE YOU'VE LOOKED AT THESE THINGS OR SINCE YOU WORKED AT
01:13PM 13 THERANOS?

01:13PM 14 A. UH-HUH.

01:13PM 15 Q. SO I UNDERSTAND THAT. AND MEMORIES FADE; RIGHT?

01:13PM 16 A. RIGHT.

01:13PM 17 Q. SO LET'S TAKE THAT DOWN.

01:13PM 18 YOUR HONOR, WHAT I'D LIKE TO DO IS TO SHOW MR. EDLIN ONLY
01:13PM 19 A SHORT VIDEO, WITH NO AUDIO, ON HIS SCREEN, AND ASK HIM IF HE
01:14PM 20 RECOGNIZES THAT VIDEO.

01:14PM 21 THE COURT: IS THAT POSSIBLE -- DO WE HAVE IT CUED
01:14PM 22 UP?

01:14PM 23 MS. WALSH: WE DO HAVE IT CUED UP, AND IT'S
01:14PM 24 EXHIBIT 20537 FOR THE RECORD.

01:14PM 25 Q. SO, MR. EDLIN, YOU'RE GOING TO SEE SOMETHING ON YOUR

01:14PM 1 SCREEN, AND I'LL ASK YOU IF YOU RECOGNIZE IT.

01:14PM 2 A. OKAY.

01:14PM 3 (VIDEO PLAYING OFF THE RECORD.)

01:14PM 4 THE WITNESS: I DO RECOGNIZE THIS.

01:14PM 5 BY MS. WALSH:

01:14PM 6 Q. OKAY. WHAT IS IT?

01:14PM 7 A. THIS IS AN APP WITH INSTRUCTIONS ON HOW TO COLLECT AND
01:15PM 8 PROCESS A SAMPLE ON A THERANOS DEVICE.

01:15PM 9 Q. AND DO YOU --

01:15PM 10 WELL, BEFORE I ASK YOU THAT, YOUR HONOR, WE OFFER 20537.

01:15PM 11 MR. BOSTIC: NO OBJECTION.

01:15PM 12 BY MS. WALSH:

01:15PM 13 Q. AND BEFORE WE PLAY IT, I JUST WANT TO ASK, THIS IS ON A
01:15PM 14 4 SERIES DEVICE, ISN'T IT?

01:15PM 15 A. YES.

01:15PM 16 Q. AND THAT'S NEXT GENERATION; RIGHT?

01:15PM 17 A. RIGHT.

01:15PM 18 Q. AND WHAT YOU SEE ON THE SCREEN IS INSTRUCTIONS ON HOW TO
01:15PM 19 COLLECT A BLOOD SAMPLE WITH THE MACHINE THERE; RIGHT?

01:15PM 20 A. RIGHT.

01:15PM 21 Q. OKAY. AND SO WE'RE GOING TO PLAY IT. AND IF YOU COULD,
01:15PM 22 MR. EDLIN, TELL US WHAT IS HAPPENING AS IT'S PLAYING?

01:15PM 23 THE COURT: LET ME ADMIT THIS NOW, AND IF YOU'D LIKE
01:15PM 24 TO PLAY IT NOW, IF NOW IS A GOOD TIME TO PLAY IT, WE CAN PLAY
01:15PM 25 IT.

01:15PM 1 MS. WALSH: OKAY. THANK YOU.

01:16PM 2 (DEFENDANT'S EXHIBIT 20537 WAS RECEIVED IN EVIDENCE.)

01:16PM 3 (VIDEO PLAYING OFF THE RECORD.)

01:16PM 4 BY MS. WALSH:

01:16PM 5 Q. SO PLEASE NARRATE FOR US WHAT IS HAPPENING.

01:16PM 6 A. OKAY. USER TAPS THE SCREEN TO BEGIN.

01:16PM 7 THIS IS GIVING INSTRUCTIONS ON HOW TO COLLECT A

01:16PM 8 FINGERSTICK SAMPLE.

01:16PM 9 THE FINGER IS WARM, AND THE FINGER GETS WIPED WITH THE

01:16PM 10 ALCOHOL SWIPE.

01:16PM 11 IT IS PAUSED TO SHOW THE FUNCTIONALITY.

01:16PM 12 THIS IS THE FINGERSTICK GRIP.

01:16PM 13 AND THEN A LANCET USING A CTN TO COLLECT THE BLOOD SAMPLE.

01:16PM 14 REMOVING THE NANOTAINER FROM THE CTN.

01:16PM 15 OPENING THE THERANOS DEVICE.

01:16PM 16 AND PUTTING A CARTRIDGE WITH THE NANOTAINER INTO THE

01:16PM 17 DEVICE.

01:16PM 18 Q. OKAY. AND AGAIN, THIS IS ON A 4 SERIES DEVICE; RIGHT?

01:16PM 19 A. YES.

01:16PM 20 Q. OKAY. AND LET ME ASK YOU ABOUT A FEW TERMS THAT YOU

01:17PM 21 MENTIONED WHEN YOU WERE NARRATING THIS.

01:17PM 22 YOU MENTIONED A CTN?

01:17PM 23 A. RIGHT.

01:17PM 24 Q. AND WHAT IS A CTN?

01:17PM 25 A. A CAPILLARY TUBE NANOTAINER. IT WAS A THERANOS

01:17PM 1 MANUFACTURED DEVICE THAT COLLECTED THE BLOOD FROM A FINGERSTICK
01:17PM 2 AND THEN TRANSFERRED THAT BLOOD INTO A LITTLE NANOTAINER TUBE.
01:17PM 3 Q. OKAY. AND YOU SAID THE NANOTAINER, HOW DOES THE
01:17PM 4 NANOTAINER DIFFER FROM THE CTN?
01:17PM 5 A. THE CTN HAS TWO PARTS, IT'S THE CAPILLARY TUBE, THE CT,
01:17PM 6 AND THEN THE NANOTAINER, WHICH IS THE N. SO THE NANOTAINER
01:17PM 7 DETACHES FROM THE CTN.
01:17PM 8 Q. OKAY. AND WHAT HAPPENS TO THE NANOTAINER AFTER IT
01:17PM 9 DETACHES?
01:17PM 10 A. THE NANOTAINER GETS ENTERED INTO A CARTRIDGE, AND THEN
01:17PM 11 THAT CARTRIDGE IS INSERTED INTO A DEVICE, AND THEN THAT BLOOD
01:18PM 12 SAMPLE IS PROCESSED IN THE DEVICE.
01:18PM 13 Q. AND THEN THE CARTRIDGE WE SAW IN THE VIDEO KIND OF GOING
01:18PM 14 INTO A LITTLE HOLE IN THE DEVICE, IS THAT WHERE THE CARTRIDGE
01:18PM 15 WOULD BE PLACED?
01:18PM 16 A. RIGHT. THERE IS KIND OF A DOOR THAT OPENS UP AND THEN YOU
01:18PM 17 PUT THE CARTRIDGE IN, AND THEN IT -- THE DEVICE ACCEPTS AND
01:18PM 18 PULLS IN THE CARTRIDGE, AND THAT CARTRIDGE HAS ALL OF THE
01:18PM 19 DIFFERENT CHEMISTRIES THAT WOULD BE NEEDED FOR A TEST.
01:18PM 20 Q. OKAY. SO LET'S NOW TURN TO THE SUBJECT OF THE NULL
01:18PM 21 PROTOCOL. OKAY?
01:18PM 22 A. UH-HUH.
01:18PM 23 Q. SO IN THE EARLY DAYS OF THE COMPANY, THE THERANOS MACHINES
01:18PM 24 WERE BUILT TO ANALYZE A BLOOD SAMPLE; RIGHT?
01:18PM 25 A. HOW EARLY?

01:19PM 1 Q. BEFORE THE DEMO APP AND THE NULL PROTOCOL WERE WRITTEN,
01:19PM 2 THE MACHINE NEEDED A BLOOD SAMPLE IN ORDER TO OPERATE PROPERLY;
01:19PM 3 IS THAT RIGHT?

01:19PM 4 A. I DON'T KNOW THE VARIOUS USE CASES OF THE MACHINE. THAT,
01:19PM 5 I WAS NOT DIRECTLY INVOLVED WITH.

01:19PM 6 Q. OKAY. BUT BEFORE THE NULL PROTOCOL WAS WRITTEN, IF YOU
01:19PM 7 PUT A CARTRIDGE IN THE MACHINE WITHOUT A BLOOD SAMPLE, IT WOULD
01:19PM 8 CAUSE THE MACHINE TO BE CONFUSED, WOULDN'T IT?

01:19PM 9 A. THAT WAS MY EXPERIENCE.

01:19PM 10 Q. RIGHT. BECAUSE THE MACHINE WAS EXPECTING TO GET A BLOOD
01:19PM 11 SAMPLE; RIGHT?

01:19PM 12 A. RIGHT.

01:19PM 13 Q. AND IT DIDN'T HAVE A BLOOD SAMPLE; RIGHT?

01:19PM 14 A. RIGHT.

01:19PM 15 Q. AND SO IT EITHER WOULD SHUT DOWN OR KICK UP ERRORS, BUT IT
01:20PM 16 WOULD NOT OPERATE PROPERLY; RIGHT?

01:20PM 17 A. RIGHT.

01:20PM 18 Q. AND SO FOR DEMONSTRATIONS WHERE PEOPLE DID NOT WANT TO
01:20PM 19 GIVE BLOOD IN ORDER TO RUN THAT DEMONSTRATION BEFORE THE NULL
01:20PM 20 PROTOCOL, PEOPLE WOULD HAVE TO DONATE THEIR BLOOD; RIGHT?

01:20PM 21 THEY WOULD HAVE TO GET A FINGERSTICK TO GO INTO THAT
01:20PM 22 CARTRIDGE?

01:20PM 23 A. DO YOU MEAN -- IN WHAT SETTING?

01:20PM 24 Q. FOR A DEMO?

01:20PM 25 A. I DID SEE THAT HAPPEN ON OCCASION.

01:20PM 1 Q. OKAY. SO IN ORDER TO PREVENT THAT FROM HAPPENING, WHEN
01:20PM 2 THERE WAS A DEMO WITH NO BLOOD SAMPLE, THE SOFTWARE TEAM WROTE
01:20PM 3 A PROTOCOL; RIGHT?
01:20PM 4 A. RIGHT.
01:20PM 5 Q. AND THAT PROTOCOL WAS THE NULL PROTOCOL; RIGHT?
01:20PM 6 A. I BELIEVE SO.
01:21PM 7 Q. AND IT TOLD THE MACHINE THAT THERE WAS NO BLOOD IN THE
01:21PM 8 CARTRIDGE; RIGHT?
01:21PM 9 A. I DON'T KNOW THOSE DETAILS IN TERMS OF WHAT IT TOLD THE
01:21PM 10 MACHINE.
01:21PM 11 I JUST KNOW THAT A NULL PROTOCOL DID NOT ATTEMPT TO RUN A
01:21PM 12 BLOOD SAMPLE.
01:21PM 13 Q. OKAY. AND YOU SAID LAST WEEK THAT THE NULL PROTOCOL
01:21PM 14 BASICALLY MEANS AN EMPTY PROTOCOL; RIGHT?
01:21PM 15 A. RIGHT.
01:21PM 16 Q. IT MEANS NOTHING, THERE'S NOTHING THERE; RIGHT?
01:21PM 17 A. RIGHT.
01:21PM 18 Q. OKAY. AND THE MACHINE WOULD NOT ATTEMPT TO RUN A BLOOD
01:21PM 19 TEST IF IT WAS PROGRAMMED IN, THAT THERE WAS NOTHING, THAT
01:21PM 20 THERE WAS NO BLOOD IN THAT CARTRIDGE; RIGHT?
01:21PM 21 A. RIGHT.
01:21PM 22 Q. AND THERE WERE NEVER ANY BLOOD SAMPLES PUT INTO THE
01:22PM 23 MACHINE WHEN YOU WERE RUNNING THE NULL PROTOCOL; RIGHT?
01:22PM 24 A. RIGHT.
01:22PM 25 MR. BOSTIC: OBJECTION. CALLS FOR SPECULATION.

01:22PM 1 THE COURT: I'LL ALLOW THE ANSWER TO REMAIN. YOU
01:22PM 2 CAN ASK ANOTHER QUESTION.

01:22PM 3 MS. WALSH: OKAY.

01:22PM 4 Q. SO I JUST WANT TO BE REALLY CLEAR ABOUT THIS, WHEN A
01:22PM 5 MACHINE WAS PROGRAMMED -- AND LET ME ASK YOU SOME FOUNDATION.
01:22PM 6 YOU WERE FAMILIAR WITH RUNNING THESE DEMOS; RIGHT?

01:22PM 7 A. YES.

01:22PM 8 Q. WE SAW EMAILS LAST WEEK, WE'RE GOING TO LOOK AT SOME MORE,
01:22PM 9 BUT WE SAW EMAILS LAST WEEK RELATING TO THE NULL PROTOCOL;
01:22PM 10 RIGHT?

01:22PM 11 A. RIGHT.

01:22PM 12 Q. AND IN YOUR EXPERIENCE AT THE COMPANY, WAS THERE EVER A
01:22PM 13 TIME THAT YOU REMEMBERED THAT THE MACHINE WAS RUNNING A NULL
01:22PM 14 PROTOCOL AND A BLOOD SAMPLE WAS PUT INTO THE MACHINE?

01:22PM 15 A. I DON'T HAVE A RECOLLECTION OF THAT HAPPENING.

01:22PM 16 Q. OKAY. AND THE GOVERNMENT ASKED YOU A HYPOTHETICAL LAST
01:22PM 17 WEEK, AND I JUST WANT TO MAKE SURE THAT IT'S REALLY, REALLY
01:23PM 18 CLEAR.

01:23PM 19 SO TURN IN YOUR VOLUME 2, YOUR VOLUME 2.

01:23PM 20 A. OKAY.

01:23PM 21 Q. AND IF YOU TURN TO EXHIBIT 28460.

01:23PM 22 A. OKAY.

01:23PM 23 Q. AND I'M LOOKING AT LINES -- SORRY.

01:23PM 24 28460, PAGE 2383?

01:24PM 25 A. I'M SORRY, WHAT WAS THE PAGE?

01:24PM 1 Q. 2383. AND IT CARRIES OVER TO 2384 WHEN YOU GET THERE.

01:24PM 2 A. YOU SAID 28460 AND THEN THERE ARE ONLY THREE DIGITS FOR

01:24PM 3 THE PAGES.

01:24PM 4 Q. OKAY. HOLD ON.

01:24PM 5 A. OH, I'M SORRY. AT THE TOP.

01:24PM 6 Q. YEAH. OKAY.

01:24PM 7 A. OKAY.

01:24PM 8 Q. SO THE BOTTOM OF 2383 CARRYING OVER TO 2384, THE QUESTION,

01:24PM 9 "SO LET'S IMAGINE."

01:24PM 10 DO YOU SEE THAT?

01:24PM 11 A. YES.

01:24PM 12 Q. AND SO YOU WERE ASKED A HYPOTHETICAL LAST WEEK?

01:24PM 13 A. YES.

01:24PM 14 Q. AND THE HYPOTHETICAL PREMISED -- WAS PREMISED ON THE

01:24PM 15 DEVICE BEING IN THE ROOM; RIGHT?

01:24PM 16 A. RIGHT.

01:24PM 17 Q. DO YOU SEE THAT?

01:24PM 18 A. YES.

01:24PM 19 Q. AND IT WAS THAT THE DEVICE WAS SET UP TO RUN THE NULL

01:25PM 20 PROTOCOL.

01:25PM 21 DO YOU SEE THAT?

01:25PM 22 A. YES.

01:25PM 23 Q. AND ALSO THAT A SAMPLE WAS PUT INTO THE MACHINE.

01:25PM 24 DO YOU SEE THAT?

01:25PM 25 A. YES, IF A SAMPLE WAS PUT INTO THE MACHINE. YES.

01:25PM 1 Q. RIGHT. BUT IT'S NOT THE CASE THAT A SAMPLE WAS PUT INTO A
01:25PM 2 MACHINE RUNNING THE NULL PROTOCOL, IS IT?

01:25PM 3 MR. BOSTIC: FOUNDATION. CALLS FOR SPECULATION. I
01:25PM 4 THINK THE QUESTION WAS AS TO HIS PERSONAL EXPERIENCE.

01:25PM 5 THE COURT: THAT'S WHAT YOU WERE ASKING WHAT HIS
01:25PM 6 PERSONAL EXPERIENCE.

01:25PM 7 MS. WALSH: THAT'S RIGHT.

01:25PM 8 THE COURT: RIGHT. DO YOU UNDERSTAND THE QUESTION?

01:25PM 9 THE WITNESS: WOULD YOU MIND REPEATING IT?

01:25PM 10 BY MS. WALSH:

01:25PM 11 Q. SURE.

01:25PM 12 IT WAS YOUR EXPERIENCE AT THERANOS, WASN'T IT, THAT IF THE
01:25PM 13 NULL PROTOCOL WAS RUNNING ON A MACHINE, A BLOOD SAMPLE WAS NOT
01:25PM 14 PUT IN THAT MACHINE; IS THAT CORRECT?

01:25PM 15 A. THAT'S CORRECT.

01:25PM 16 Q. LET'S TURN TO AN EXHIBIT THAT THE GOVERNMENT SHOWED YOU
01:25PM 17 LAST WEEK ABOUT THE NULL PROTOCOL, 959.

01:26PM 18 YOUR HONOR, THIS ONE IS IN EVIDENCE SO PERMISSION TO
01:26PM 19 PUBLISH?

01:26PM 20 THE COURT: YES.

01:26PM 21 BY MS. WALSH:

01:26PM 22 Q. OKAY. IF YOU LOOK AT THE BOTTOM OF PAGE 1, MR. EDLIN, IT
01:26PM 23 TALKS ABOUT THE DEMO APP SHIELDING PROTOCOL FAILURES.

01:26PM 24 DO YOU SEE THAT?

01:26PM 25 A. YES.

01:26PM 1 Q. AND THE GOVERNMENT ASKED YOU ABOUT THE DEMO APP IN
01:26PM 2 CONNECTION WITH THE NULL PROTOCOL.

01:26PM 3 WE WERE TALKING ABOUT THAT LAST WEEK; RIGHT?

01:26PM 4 A. YES.

01:26PM 5 Q. AND THERE WAS NOTHING OR YOU DIDN'T BELIEVE YOU WERE DOING
01:26PM 6 ANYTHING NEFARIOUS IN RUNNING THESE DEMOS USING THE DEMO APP OR
01:26PM 7 THE NULL PROTOCOL, DID YOU?

01:26PM 8 A. NO.

01:26PM 9 Q. YOU WEREN'T TRYING TO TRICK ANYONE; RIGHT?

01:26PM 10 A. RIGHT.

01:26PM 11 Q. YOU WEREN'T TRYING TO PULL THE WOOL OVER ANYONE'S EYES;
01:26PM 12 CORRECT?

01:26PM 13 A. CORRECT.

01:26PM 14 Q. AND YOU HAD NO REASON TO BELIEVE AT THE TIME THAT ANYONE
01:27PM 15 ELSE AT THERANOS WAS DOING THAT; RIGHT?

01:27PM 16 A. RIGHT.

01:27PM 17 Q. YOU WERE SIMPLY RUNNING THE DEMOS TO TRY TO SHOW A VISITOR
01:27PM 18 HOW THE TECHNOLOGY WORKED; RIGHT?

01:27PM 19 A. CORRECT.

01:27PM 20 Q. AND MANY OF THE MACHINES THAT YOU WERE DOING THAT ON WERE
01:27PM 21 NEXT GENERATION MACHINES; RIGHT?

01:27PM 22 A. AT A CERTAIN POINT, YES.

01:27PM 23 Q. OKAY. IF YOU COULD, MR. EDLIN, TURN IN YOUR BINDER TO
01:27PM 24 20486.

01:28PM 25 A. OKAY.

01:28PM 1 Q. OKAY. JUST TAKE A LOOK AT THAT EMAIL AND TELL US WHETHER
01:28PM 2 THAT WAS EMAIL CORRESPONDENCE BETWEEN YOU, AND MR. BALWANI, AND
01:28PM 3 DR. YOUNG REGARDING THE DEPARTMENT OF DEFENSE APP?
01:28PM 4 A. YES.
01:28PM 5 Q. AND THAT EMAIL IS IN APRIL OF 2013.
01:28PM 6 DO YOU SEE THAT?
01:28PM 7 A. YES.
01:28PM 8 Q. OKAY.
01:28PM 9 YOUR HONOR, WE OFFER 20486.
01:28PM 10 MR. BOSTIC: NO OBJECTION.
01:28PM 11 THE COURT: IT'S ADMITTED.
01:28PM 12 (DEFENDANT'S EXHIBIT 20486 WAS RECEIVED IN EVIDENCE.)
01:28PM 13 BY MS. WALSH:
01:28PM 14 Q. SO LET'S TURN TO PAGE 2 OF THAT EMAIL. AND THIS PART OF
01:28PM 15 THE EMAIL IS FROM MR. BALWANI TO YOU ON APRIL 13TH?
01:28PM 16 A. RIGHT.
01:28PM 17 Q. AND WHAT THE EMAIL SAYS, "DAN,
01:28PM 18 "WE ARE GETTING COUPLE OF 4S DEVICES THIS WEEK AND NEXT.
01:28PM 19 AS PART OF STRESS TESTING THEM, I WANT YOU TO SPEND COUPLE OF
01:28PM 20 HOURS OR DESIGNATE SOMEONE FROM QA TO SPEND A DAY STRESS
01:29PM 21 TESTING THE DOD APP."
01:29PM 22 DO YOU SEE THAT?
01:29PM 23 A. YES.
01:29PM 24 Q. AND DO YOU REMEMBER WHAT THE DOD APP WAS?
01:29PM 25 A. YES. IT WAS AN APP THAT WAS INTENDED FOR THE PROGRAMS

01:29PM 1 WITH THE MILITARY THAT I DISCUSSED EARLIER TODAY.

01:29PM 2 Q. OKAY. AND HE CONTINUES.

01:29PM 3 "AND RUNNING A DUMMY CARTRIDGE AND VIEWING RESULTS FROM
01:29PM 4 THE CLOUD. THE ENTIRE PROCESS IS NOW CODE COMPLETE AND
01:29PM 5 INTEGRATED SO EVEN IF YOU RUN A CONTROL CARTRIDGE THAT RUNS FOR
01:29PM 6 5 MINUTES, IT WILL GIVE YOU SOME RESULT. SHEKAR IS CODE
01:29PM 7 COMPLETE WITH SERVER SIDE CODE."

01:29PM 8 DO YOU SEE THAT?

01:29PM 9 A. YES.

01:29PM 10 Q. AND WHO WAS SHEKAR?

01:29PM 11 A. SHEKAR WAS A SOFTWARE DEVELOPER. I'M SURE HE HAD A HIGHER
01:29PM 12 TITLE THAN THAT AT THERANOS.

01:29PM 13 Q. OKAY. AND THEN IF WE CONTINUE UP THE EMAIL, YOU RESPOND,
01:30PM 14 OR I GUESS YOU FORWARD THIS TO DR. YOUNG, AND YOU SAY, "HI
01:30PM 15 DANIEL."

01:30PM 16 AND THAT'S DANIEL YOUNG; RIGHT?

01:30PM 17 A. RIGHT.

01:30PM 18 Q. "SUNNY WOULD LIKE TO START STRESS TESTING THE DOD APP ON
01:30PM 19 THE 4S NEXT MONDAY -- WILL YOU BE ABLE TO PROVIDE A DUMMY
01:30PM 20 CARTRIDGE?"

01:30PM 21 DO YOU SEE THAT?

01:30PM 22 A. YES.

01:30PM 23 Q. AND THE 4S IS THE NEXT GENERATION DEVICE; RIGHT?

01:30PM 24 A. RIGHT.

01:30PM 25 Q. AND DR. YOUNG RESPONDS TO YOU, "WHAT DO YOU WANT TO RUN ON

01:30PM 1 THIS CARTRIDGE?"

01:30PM 2 RIGHT?

01:30PM 3 A. RIGHT.

01:30PM 4 Q. AND AGAIN, THE CARTRIDGE IS THE THING THAT YOU PUT IN THE

01:30PM 5 MACHINE THAT MAY OR MAY NOT HAVE BLOOD IN IT; RIGHT?

01:30PM 6 A. RIGHT.

01:30PM 7 Q. AND THEN YOU RESPOND TO DR. YOUNG AND SAY, "INITIALLY WE

01:30PM 8 ONLY HAVE TO RUN A NULL PROTOCOL, BUT LATER IN THE WEEK IF WE

01:30PM 9 COULD RUN CARTRIDGES SIMILAR TO THE ONES WE WILL BE DEPLOYING

01:30PM 10 THAT WOULD BE IDEAL -- WHATEVER WE CAN GET THAT WILL BE AS

01:30PM 11 CLOSE TO A REAL-LIFE SIMULATION AS POSSIBLE SO WE CAN TEST ALL

01:31PM 12 OF THE FACETS OF THE APP."

01:31PM 13 DO YOU SEE THAT?

01:31PM 14 A. YES.

01:31PM 15 Q. SO THIS IS NOT EVEN -- THIS IS AN INTERNAL THERANOS EMAIL;

01:31PM 16 RIGHT?

01:31PM 17 A. YES.

01:31PM 18 Q. AND THIS IS NOT AN INVESTOR DEMO; RIGHT?

01:31PM 19 A. CORRECT.

01:31PM 20 Q. YOU'RE JUST STRESS TESTING A DEVICE; CORRECT?

01:31PM 21 A. CORRECT.

01:31PM 22 Q. AND YOU ARE SAYING YOU MIGHT RUN THE NULL PROTOCOL IN THAT

01:31PM 23 STRESS TESTING; RIGHT?

01:31PM 24 A. RIGHT.

01:31PM 25 Q. SO AGAIN, THERE WAS NOTHING NEFARIOUS ABOUT RUNNING THE

01:31PM 1 NULL PROTOCOL ON THESE MACHINES; CORRECT?

01:31PM 2 A. CORRECT.

01:31PM 3 Q. THIS IS NOT EVEN AN OUTWARD FACING EMAIL; RIGHT?

01:31PM 4 A. RIGHT.

01:31PM 5 Q. AND IT'S NOT ABOUT PRESENTING THERANOS TECHNOLOGY TO AN

01:31PM 6 OUTSIDE PARTY FOR THE STRESS TESTING; RIGHT?

01:31PM 7 A. CORRECT.

01:31PM 8 Q. OKAY. WE CAN TAKE THAT DOWN.

01:32PM 9 LET'S TURN TO THE TECH DEMOS THAT DID INVOLVE TESTING.

01:32PM 10 YOU TESTIFIED ABOUT SOME OF THOSE LAST WEEK; RIGHT?

01:32PM 11 A. RIGHT.

01:32PM 12 Q. AND YOU ALSO MENTIONED LAST WEEK AND TODAY THAT SOME OF

01:32PM 13 THOSE DEMONSTRATIONS WERE RUN OUTSIDE OF THERANOS; RIGHT?

01:32PM 14 A. YES.

01:32PM 15 Q. OKAY. SO LET'S TAKE A LOOK AT ONE OF THOSE.

01:32PM 16 THIS IS ONE THAT THE GOVERNMENT DIDN'T SHOW YOU.

01:32PM 17 TURN IN YOUR BINDER TO 7244.

01:32PM 18 A. OKAY.

01:32PM 19 Q. SO JUST READ THROUGH THAT EMAIL OR TAKE A LOOK AT IT.

01:33PM 20 AND IF YOU LOOK AT THE BOTTOM EMAIL, THIS IS AN EMAIL FROM

01:33PM 21 MR. BALWANI TO YOU AND OTHERS; RIGHT?

01:33PM 22 A. RIGHT.

01:33PM 23 Q. AND THE OTHERS ARE MOSTLY SCIENTISTS AT THERANOS; RIGHT?

01:33PM 24 A. YES.

01:33PM 25 Q. AND ON AUGUST 1ST, 2012; RIGHT?

01:33PM 1 A. RIGHT.

01:33PM 2 Q. AND IT RELATES TO A DEMO THAT TOOK PLACE IN CHICAGO.

01:33PM 3 DO YOU SEE THAT?

01:33PM 4 A. YES.

01:33PM 5 Q. OKAY.

01:33PM 6 YOUR HONOR, WE OFFER 7244.

01:33PM 7 MR. BOSTIC: TWO LAYERS OF HEARSAY HERE, YOUR HONOR.

01:33PM 8 (PAUSE IN PROCEEDINGS.)

01:33PM 9 THE COURT: MS. WALSH.

01:33PM 10 MS. WALSH: YES, YOUR HONOR. THIS IS A BUSINESS

01:33PM 11 RECORD. I'M HAPPY TO LAY A FOUNDATION WITH THE WAY WE DID WITH

01:33PM 12 THE OTHER DEMO EMAILS.

01:33PM 13 THE COURT: MR. BOSTIC, ARE YOU -- YOU HAVE CONCERN

01:34PM 14 WITH THE FIRST PARAGRAPH?

01:34PM 15 MR. BOSTIC: YES, YOUR HONOR, THE FIRST PARAGRAPH

01:34PM 16 TOWARDS THE BOTTOM OF THE PAGE. ALSO, I'M NOT SURE THAT THIS

01:34PM 17 QUALIFIES AS A BUSINESS RECORD, THIS KIND OF ONE-OFF

01:34PM 18 COMMUNICATION.

01:34PM 19 (PAUSE IN PROCEEDINGS.)

01:34PM 20 MS. WALSH: IT ALSO GOES TO MR. BALWANI'S STATE OF

01:34PM 21 MIND, YOUR HONOR. HE'S ON THE EMAIL.

01:34PM 22 THE COURT: ALL RIGHT. THANK YOU.

01:34PM 23 I'LL ADMIT THIS, AND IT MAY BE PUBLISHED.

01:34PM 24 (DEFENDANT'S EXHIBIT 7244 WAS RECEIVED IN EVIDENCE.)

01:34PM 25 BY MS. WALSH:

01:34PM 1 Q. OKAY. LET'S TAKE A LOOK AT THIS BOTTOM EMAIL.

01:35PM 2 AS I SAID, THIS IS FROM MR. BALWANI TO YOU AND A NUMBER OF

01:35PM 3 DIFFERENT PEOPLE. AND I JUST WANT TO TAKE YOU THROUGH SOME OF

01:35PM 4 THEM TO SEE IF YOU KNOW WHO THEY ARE.

01:35PM 5 A. YES.

01:35PM 6 Q. SO DANIEL YOUNG WE'VE TALKED ABOUT?

01:35PM 7 A. RIGHT.

01:35PM 8 Q. SUREKHA GANGADKHEDKAR.

01:35PM 9 DO YOU SEE THAT NAME?

01:35PM 10 A. YES.

01:35PM 11 Q. AND SHE WAS THE LEADER OF THE IMMUNOASSAYS IN THE R&D

01:35PM 12 SECTION; RIGHT?

01:35PM 13 A. YES.

01:35PM 14 Q. AND DR. PAUL PATEL.

01:35PM 15 DO YOU SEE THAT NAME?

01:35PM 16 A. YES.

01:35PM 17 Q. HE WAS THE LEADER OF THE GENERAL CHEMISTRY ASSAYS IN R&D;

01:35PM 18 RIGHT?

01:35PM 19 A. RIGHT.

01:35PM 20 Q. AND CHINMAY PANGARKAR.

01:35PM 21 DO YOU SEE THAT?

01:35PM 22 A. YES.

01:35PM 23 Q. HE WAS IN CHARGE OF ASSAY DEVELOPMENT FOR CYTOMETRY AND

01:35PM 24 IMMUNOASSAYS; RIGHT?

01:35PM 25 A. RIGHT.

01:35PM 1 Q. OKAY. AND THERE ARE ALSO SOME PEOPLE ON HERE WHO WORKED
01:35PM 2 ON HARDWARE.

01:36PM 3 DO YOU SEE THE NAME SURAJ SAKSENA?

01:36PM 4 A. YES.

01:36PM 5 Q. HE WAS IN CHARGE OF CARTRIDGE MANUFACTURING, WAS HE NOT?

01:36PM 6 A. I DON'T RECALL SPECIFICALLY.

01:36PM 7 Q. OKAY. AND HOW ABOUT IAN GIBBONS?

01:36PM 8 DO YOU RECOGNIZE THAT NAME?

01:36PM 9 A. YES.

01:36PM 10 Q. HE WAS ONE OF THE CHIEF SCIENTISTS AT THERANOS?

01:36PM 11 A. YES.

01:36PM 12 Q. AND ALL OF THOSE PEOPLE ARE PH.D.'S; RIGHT?

01:36PM 13 A. I BELIEVE IAN WAS -- OH, ALL OF THESE PEOPLE.

01:36PM 14 I DON'T KNOW. I REMEMBER CHINMAY AND IAN AS I RECALL, BUT
01:36PM 15 I WOULDN'T BE SURPRISED, IN FACT, IF THEY HAD PH.D.'S.

01:36PM 16 Q. OKAY. SO LET'S TAKE A LOOK AT WHAT MR. BALWANI SAYS TO
01:36PM 17 THIS GROUP.

01:36PM 18 HE SAYS, "I HEARD BACK FROM THE EXECUTIVE ON WHOM WE HAD
01:36PM 19 PERFORMED THE DEMO ON 7/16 IN CHICAGO."

01:36PM 20 DO YOU SEE THAT?

01:36PM 21 A. YES.

01:36PM 22 Q. AND DO YOU KNOW WHO OR -- YEAH, WHAT EXECUTIVE THAT WAS?

01:36PM 23 A. I DON'T REMEMBER WHICH SPECIFIC EXECUTIVE.

01:37PM 24 Q. AND HOW ABOUT, WHAT ABOUT THE COMPANY THAT THE EXECUTIVE
01:37PM 25 WAS EMPLOYED BY?

01:37PM 1 A. I BELIEVE IT WAS WITH WALGREENS.

01:37PM 2 Q. OKAY. CONTINUING ON WITH WHAT MR. BALWANI SAYS.

01:37PM 3 "HE SAID HIS RESULTS FROM THE CENTRAL LAB THAT HE DID ON
01:37PM 4 HIS DOCTOR'S ORDER, WERE IDENTICAL TO THE RESULTS FROM OUR
01:37PM 5 SYSTEM DURING THE DEMO. HE HAD GONE TO SEE HIS DOCTOR AFTER HE
01:37PM 6 GOT OUR RESULTS DURING THE DEMO."

01:37PM 7 AND THEN MR. BALWANI CONTINUES. "I HOPE THIS GIVES AN
01:37PM 8 ADDITIONAL DOSE OF CONFIDENCE (NOT THAT YOU NEEDED MORE OF IT)
01:37PM 9 TO EVERYONE AS THESE WERE DIFFICULT ASSAYS -- INCLUDED
01:37PM 10 VITAMIN DIFFICULT. WE ARE DOING GOOD WORK HERE AND WILL SAVE
01:37PM 11 MILLIONS OF LIVES AND WILL IMPROVE THE QUALITY OF CARE
01:37PM 12 DELIVERED TO HUNDREDS OF MILLIONS MORE BECAUSE OF OUR WORK.
01:37PM 13 THIS KNOWLEDGE AND CONVICTION SHOULD BE THE GREATEST SOURCE OF
01:38PM 14 OUR CONFIDENCE. I THINK IT IS A UNIQUE OPPORTUNITY WHEN YOUR
01:38PM 15 CAREER AND WORK IS NOT JUST WORK THAT PAYS YOUR BILLS, BUT IS
01:38PM 16 ALSO IN SERVICE OF HUMANITY AND GOOD FOR THE GREATER GOOD. I
01:38PM 17 HOPE YOU ALL SHARE THIS SENTIMENT."

01:38PM 18 DO YOU SEE THAT?

01:38PM 19 A. YES.

01:38PM 20 Q. AND ONE OF THERANOS'S GOALS WAS TO MAKE BLOOD TESTING MORE
01:38PM 21 ACCESSIBLE TO EVERYONE; RIGHT?

01:38PM 22 A. RIGHT.

01:38PM 23 Q. TO MAKE IT CHEAPER; RIGHT?

01:38PM 24 A. RIGHT.

01:38PM 25 Q. AND MORE CONVENIENT; RIGHT?

01:38PM 1 A. CORRECT.

01:38PM 2 Q. WE CAN TAKE THAT DOWN.

01:38PM 3 NOW, YOU TESTIFIED LAST WEEK ABOUT A DEMONSTRATION THAT

01:38PM 4 TOOK PLACE AT A NEW YORK CITY HOSPITAL.

01:38PM 5 DO YOU REMEMBER THAT?

01:38PM 6 A. YES.

01:38PM 7 Q. AND YOU SAID THAT THE PURPOSE OF THE MEETING WAS TO SHARE

01:38PM 8 WHAT THERANOS WAS WORKING ON; RIGHT?

01:38PM 9 A. RIGHT.

01:38PM 10 Q. AND TO EXPLORE POTENTIAL OPPORTUNITIES TO PARTNER WITH

01:38PM 11 THAT HOSPITAL; CORRECT?

01:38PM 12 A. CORRECT.

01:38PM 13 Q. AND PART OF THE MEETING, IN ADDITION TO THE DISCUSSION,

01:39PM 14 WAS TO RUN A DEMONSTRATION; RIGHT?

01:39PM 15 A. RIGHT.

01:39PM 16 Q. AND YOU HAD YOUR ROLE IN COORDINATING THAT DEMONSTRATION;

01:39PM 17 RIGHT?

01:39PM 18 A. CORRECT.

01:39PM 19 Q. AND THE DEVICE HAD TO BE SENT TO NEW YORK; RIGHT?

01:39PM 20 A. RIGHT.

01:39PM 21 Q. AND DANIEL YOUNG HAD HIS ROLE IN THE DEMONSTRATION; RIGHT?

01:39PM 22 A. RIGHT.

01:39PM 23 Q. AND HIS ROLE WAS TO REVIEW THE TEST RESULTS; RIGHT?

01:39PM 24 A. RIGHT.

01:39PM 25 Q. AND THE TEST LOGS; RIGHT?

01:39PM 1 A. RIGHT.

01:39PM 2 Q. AND TO ENSURE THE TEST WAS VALID. I THINK YOU TESTIFIED

01:39PM 3 TO THAT LAST WEEK; RIGHT?

01:39PM 4 A. RIGHT.

01:39PM 5 Q. AND HE INTERPRETED THE RESULTS AND APPROVED THEM FOR

01:39PM 6 DISTRIBUTION BACK TO THE CLIENT; RIGHT?

01:39PM 7 A. RIGHT.

01:39PM 8 Q. OKAY. SO LET'S TAKE A LOOK AT 860.

01:40PM 9 DO YOU HAVE THAT IN FRONT OF YOU?

01:40PM 10 THE COURT: 860?

01:40PM 11 MS. WALSH: 860.

01:40PM 12 YOUR HONOR, THIS IS IN EVIDENCE, SO I REQUEST THAT IT BE

01:40PM 13 PUBLISHED.

01:40PM 14 THE COURT: YES.

01:40PM 15 MS. WALSH: THANK YOU.

01:40PM 16 Q. DO YOU HAVE IT, MR. EDLIN? IT'S ON YOUR SCREEN.

01:40PM 17 A. YEAH, SORRY.

01:40PM 18 Q. OKAY. SO LET'S GO TO PAGE 11 OF 860.

01:40PM 19 AND ON THE TOP OF PAGE 11 YOU ARE ASKING SUREKHA, CAN YOU

01:40PM 20 PLEASE SEND THE RESULTS TO DR. YOUNG; RIGHT?

01:40PM 21 A. RIGHT.

01:40PM 22 Q. AND YOU SAID THAT IS DANIEL, THAT'S DANIEL YOUNG; RIGHT?

01:40PM 23 A. YES.

01:40PM 24 Q. AND YOU SAY, "CAN YOU PLEASE REVIEW AND PROVIDE REFERENCE

01:40PM 25 RANGES AS WELL FOR THE LAB REPORT."

01:40PM 1 DO YOU SEE THAT?

01:40PM 2 A. YES.

01:40PM 3 Q. AND NOW LET'S FLIP TO PAGE 10 AND YOU SEE THERE'S A BOX,

01:40PM 4 KIND OF A CHART OF ASSAYS THERE FROM SUREKHA.

01:40PM 5 DO YOU SEE THAT?

01:40PM 6 A. YES.

01:40PM 7 Q. AND THERE ARE SIX DIFFERENT ASSAYS LISTED; RIGHT?

01:41PM 8 A. RIGHT.

01:41PM 9 Q. AND THAT'S FOR ONE CARTRIDGE; RIGHT?

01:41PM 10 A. RIGHT.

01:41PM 11 Q. AND SO THAT'S A NEXT GENERATION DEVICE, ISN'T IT, SIX

01:41PM 12 ASSAYS ON ONE CARTRIDGE?

01:41PM 13 A. I DON'T KNOW.

01:41PM 14 Q. OKAY. YOU SEE ONE OF THE ASSAYS IS HSV 1.

01:41PM 15 DO YOU SEE THAT?

01:41PM 16 A. YES.

01:41PM 17 Q. AND YOU REMEMBER THAT THERANOS GOT FDA APPROVAL ON THE

01:41PM 18 HSV 1 ASSAY.

01:41PM 19 DO YOU REMEMBER THAT?

01:41PM 20 A. YES.

01:41PM 21 Q. THAT'S LATER IN TIME, BUT IT WAS ULTIMATELY APPROVED BY

01:41PM 22 THE FDA; CORRECT?

01:41PM 23 A. CORRECT.

01:42PM 24 Q. AND WITH REGARD TO THAT ASSAY, THAT MEANT THAT THERANOS

01:42PM 25 COULD PUT ITS MACHINE IN A PLACE EXTERNAL TO THERANOS AND RUN

01:42PM 1
01:42PM 2
01:42PM 3
01:42PM 4
01:42PM 5
01:42PM 6
01:42PM 7
01:42PM 8
01:42PM 9
01:42PM 10
01:42PM 11
01:42PM 12
01:42PM 13
01:42PM 14
01:42PM 15
01:42PM 16
01:42PM 17
01:42PM 18
01:42PM 19
01:42PM 20
01:43PM 21
01:43PM 22
01:43PM 23
01:43PM 24
01:43PM 25

THAT ASSAY; RIGHT?

MR. BOSTIC: FOUNDATION. CALLS FOR A LEGAL CONCLUSION.

MS. WALSH: I'LL WITHDRAW IT.

THE COURT: THE QUESTION IS WITHDRAWN.

BY MS. WALSH:

Q. OKAY. LET'S LOOK UP AT THE EMAIL.

AND YOU ASK DANIEL IN THE THIRD PARAGRAPH THERE, "CAN YOU PLEASE CONFIRM THE UNITS BELOW AND THE REFERENCE RANGES FOR THESE ASSAYS?

"WILL ANY OF THE REFERENCE RANGES CHANGE FOR THE OTHER ASSAYS GIVEN THAT THE SUBJECT TODAY WAS FEMALE? FOR REFERENCE, I HAVE ATTACHED A SPREADSHEET COMPARING THE REFERENCE RANGES FOR LAST TWO DEMOS WE DID -- THE ONE FROM EARLIER THIS WEEK (MALE SUBJECT), AND THE LAST TIME WE TOOK THE SAMPLE AND SENT IT BACK FROM PHOENIX (FEMALE SUBJECT). I HAVE HIGHLIGHTED THE DIFFERENCES IN YELLOW."

DO YOU SEE THAT?

A. YES.

Q. OKAY. AND THERE YOU'RE TALKING ABOUT DETERMINING A REFERENCE RANGE FOR THE TEST; RIGHT?

A. RIGHT.

Q. AND REFERENCE RANGES CHANGED FROM TIME TO TIME, DIDN'T THEY?

A. CAN YOU BE MORE SPECIFIC?

01:43PM 1 Q. SURE.

01:43PM 2 WELL, YOU'RE ATTACHING A SPREADSHEET SHOWING TWO DIFFERENT

01:43PM 3 REFERENCE RANGES; RIGHT? THAT'S WHAT YOU SAY IN YOUR EMAIL?

01:43PM 4 A. THIS INDICATES TO ME THAT THERE CAN BE DIFFERENT REFERENCE

01:43PM 5 RANGES FOR A MALE AND FOR A FEMALE.

01:43PM 6 Q. RIGHT. AND THAT WASN'T UNUSUAL, WAS IT?

01:43PM 7 A. NO.

01:43PM 8 Q. AND YOU WEREN'T IN CHARGE OF SETTING THE REFERENCE RANGES;

01:43PM 9 RIGHT?

01:43PM 10 A. CORRECT.

01:43PM 11 Q. DR. YOUNG, THAT WAS HIS JOB; RIGHT?

01:44PM 12 A. CORRECT.

01:44PM 13 Q. AND IN YOUR EXPERIENCE WITH DR. YOUNG, HE SET THE

01:44PM 14 REFERENCE RANGES BASED ON THE SCIENCE THAT HE WAS AWARE OF;

01:44PM 15 RIGHT?

01:44PM 16 MR. BOSTIC: FOUNDATION. CALLS FOR SPECULATION.

01:44PM 17 THE COURT: SUSTAINED.

01:44PM 18 MS. WALSH: OKAY. WELL, LET'S LOOK FURTHER IN THE

01:44PM 19 EMAIL.

01:44PM 20 Q. SO ON PAGE 9 YOU POINT OUT AT THE TOP THAT THERE'S A

01:44PM 21 DISCREPANCY BETWEEN THE TWO INFECTIOUS PANEL RUNS; RIGHT?

01:44PM 22 A. RIGHT.

01:44PM 23 Q. AND THEN IF YOU GO TO PAGE 7, THAT'S WHEN MS. HOLMES SAYS,

01:44PM 24 "THE DISCREPANCY WILL BE A PROBLEM."

01:44PM 25 DO YOU REMEMBER THAT?

01:44PM 1 A. YES.

01:44PM 2 Q. THE GOVERNMENT HIGHLIGHTED THAT FOR YOU?

01:44PM 3 A. YES.

01:44PM 4 Q. AND SO I'M GOING TO GO FURTHER UP THE EMAIL TO LOOK AT

01:44PM 5 PARTS OF THE EMAIL THAT WE DIDN'T SEE LAST WEEK DURING YOUR

01:44PM 6 TESTIMONY.

01:44PM 7 ON PAGE 5, THE TOP OF PAGE 5 MS. HOLMES ASKS, "DANIEL --

01:45PM 8 IS OUR READ THAT THE SECOND RUN IN PA," THAT'S PALO ALTO;

01:45PM 9 RIGHT?

01:45PM 10 A. RIGHT.

01:45PM 11 Q. "SECOND RUN IN PALO ALTO IS THE MOST ACCURATE FOR ALL

01:45PM 12 THREE DISCREPANCIES?"

01:45PM 13 DO YOU SEE THAT?

01:45PM 14 A. YES, AND SHE'S ASKING DR. YOUNG.

01:45PM 15 Q. I WAS JUST GOING TO ASK YOU THAT, RIGHT.

01:45PM 16 SO GENERALLY AT THERANOS, DANIEL YOUNG IS DANIEL; RIGHT?

01:45PM 17 A. YES.

01:45PM 18 Q. AND YOU WERE REFERRED TO AS DAN; IS THAT FAIR?

01:45PM 19 A. YES.

01:45PM 20 Q. AND SO SHE'S ASKING DR. YOUNG, "IS OUR READ THAT THE

01:45PM 21 SECOND RUN IN PALO ALTO IS THE MOST ACCURATE."

01:45PM 22 CORRECT?

01:45PM 23 A. YES.

01:45PM 24 Q. OKAY.

01:45PM 25 A. YES.

01:45PM 1 Q. AND IF WE FLIP TO PAGE 4, DR. YOUNG RESPONDS TO HER, AND
01:45PM 2 HE SAYS, "YES, I TRUST THE SECOND RUN IN PALO ALTO. OVER
01:45PM 3 90 PERCENT OF PEOPLE APPROXIMATELY 50 YEARS OF AGE SHOULD TEST
01:45PM 4 POSITIVE FOR MUMPS IGG BASED ON PUBLISHED SEROPREVALENCE
01:46PM 5 STUDIES."

01:46PM 6 DO YOU SEE THAT?

01:46PM 7 A. UH-HUH, YES.

01:46PM 8 Q. AND SO HERE IS AN EXAMPLE OF DR. YOUNG CONSULTING
01:46PM 9 SCIENTIFIC PUBLICATIONS AND USING HIS SCIENTIFIC BACKGROUND TO
01:46PM 10 EXPRESS HIS OPINION AS TO WHICH TEST IS MORE ACCURATE; RIGHT?

01:46PM 11 A. RIGHT.

01:46PM 12 Q. LET'S NOW GO -- IF YOU COULD, ACTUALLY, MR. EDLIN, LOOK AT
01:46PM 13 PAGES 3 AND 2.

01:46PM 14 AND THERE'S KIND OF A DEBATE BETWEEN MS. HOLMES AND
01:46PM 15 DR. YOUNG ABOUT THE SCIENCE OF WHAT HE'S SAYING.

01:46PM 16 DO YOU SEE THAT?

01:46PM 17 A. YES.

01:46PM 18 Q. OKAY. AND THEN ON PAGE 2 WE CAN HIGHLIGHT FROM
01:46PM 19 MS. HOLMES, AFTER THAT DEBATE SHE SAYS, "GO AHEAD AND PREPARE
01:46PM 20 FINAL REPORT AND I'LL REVIEW IN PARALLEL."

01:46PM 21 DO YOU SEE THAT?

01:46PM 22 A. YES.

01:46PM 23 Q. AND BY THE WAY, IN THE EMAIL PARTS OF THE CHAIN WHERE
01:47PM 24 MS. HOLMES AND DR. YOUNG ARE DEBATING THE SCIENCE RELATED TO
01:47PM 25 THIS TEST, MR. BALWANI IS NOT SAYING ANYTHING, IS HE?

01:47PM 1 A. NO.

01:47PM 2 Q. HE'S NOT COMMENTING ON IT; RIGHT?

01:47PM 3 A. RIGHT.

01:47PM 4 Q. OKAY. SO NOW LET'S FLIP TO PAGE 1. LET'S LOOK AT

01:47PM 5 DANIEL YOUNG'S EMAIL ON JUNE 1ST, 2013, 7:44 P.M.

01:47PM 6 HE'S COMMENTING ON THE FINAL VERSION OF THE REPORT; RIGHT?

01:47PM 7 A. RIGHT.

01:47PM 8 Q. AND HE'S SAYING, "TOTAL HB SHOULD HAVE AN 'L' NEXT TO IT";

01:47PM 9 CORRECT?

01:47PM 10 A. RIGHT.

01:47PM 11 Q. INDICATING TO THE CUSTOMER THAT IT'S LOW; RIGHT?

01:47PM 12 A. YES.

01:47PM 13 Q. OKAY. AND MS. HOLMES RESPONDS, "OK LET'S SEND IT OUT

01:47PM 14 AFTER THESE CHANGES. I ASSUME IT IS BEST PRACTICE TO LEAVE THE

01:47PM 15 H AND L RESPECTIVELY FOR THE ONES THAT ARE JUST ONE POINT OUT

01:47PM 16 OF RANGE -- I HAVE SEEN SOME REPORTS THAT DON'T FLAG IT."

01:47PM 17 DO YOU SEE THAT?

01:47PM 18 A. YES.

01:47PM 19 Q. SO SHE'S SAYING IT'S THE BEST PRACTICE TO LEAVE THOSE

01:48PM 20 INDICATIONS HIGH AND LOW, SO LET'S DO THAT; RIGHT?

01:48PM 21 A. IT SOUNDS LIKE SHE'S CONFIRMING WHETHER THEY SHOULD BE

01:48PM 22 MARKED AS HIGH OR LOW IF THEY'RE JUST ONE POINT OUT OF RANGE.

01:48PM 23 Q. RIGHT. OKAY.

01:48PM 24 AND THEN THE NEXT EMAIL UP IS FROM MR. BALWANI.

01:48PM 25 DO YOU SEE THAT?

01:48PM 1 A. YES.

01:48PM 2 Q. AND HE SAYS, "WE SHOULD DO THAT BECAUSE THAT'S WHAT ALL

01:48PM 3 COMPUTERIZED LIS SYSTEMS WILL DO. NO FUZZY LOGIC..."

01:48PM 4 DO YOU SEE THAT?

01:48PM 5 A. YES.

01:48PM 6 Q. AND THIS IS THE FIRST TIME THAT HE'S COMMENTING IN THIS 11

01:48PM 7 OR SO PAGE EMAIL CHAIN; RIGHT?

01:48PM 8 A. YES.

01:48PM 9 Q. AND WHAT HE'S SAYING IS EVEN IF IT'S ONE POINT OUT OF

01:48PM 10 RANGE, IF IT'S OUT OF RANGE, IT'S OUT OF RANGE, AND WE SHOULD

01:48PM 11 INDICATE THAT ON THE REPORT; RIGHT?

01:48PM 12 A. RIGHT.

01:48PM 13 Q. OKAY. WE CAN TAKE THAT DOWN.

01:49PM 14 THE COURT: FOLKS, WHY DON'T YOU TAKE A STANDING

01:49PM 15 BREAK, AND LET'S SEE HOW THAT WORKS IN YOUR SEATING ARRANGEMENT

01:49PM 16 NOW BEFORE WE MOVE TO THE NEXT DOCUMENT.

01:49PM 17 I THOUGHT WE WOULD BREAK, MS. WALSH, ABOUT A QUARTER PAST

01:49PM 18 THE HOUR AT 2:15.

01:49PM 19 MS. WALSH: SURE. THAT'S FINE.

01:49PM 20 (STRETCHING.)

01:50PM 21 BY MS. WALSH:

01:50PM 22 Q. CAN YOU TURN TO PAGE 957 IN YOUR BINDER?

01:50PM 23 A. VOLUME 1?

01:50PM 24 Q. VOLUME 1, YEAH.

01:50PM 25 THE COURT: IT MAY NOT BE.

01:50PM 1 MS. WALSH: I'M SORRY. THIS IS IN EVIDENCE. I
01:50PM 2 APOLOGIZE. SO WE'LL JUST PUBLISH IT ON YOUR SCREEN. YEAH.

01:50PM 3 Q. OKAY. SO EXHIBIT 957.

01:50PM 4 SO BEFORE WE GET INTO THE EMAIL, MR. EDLIN, YOU TESTIFIED
01:50PM 5 ON DIRECT THAT THE FIRST TIME YOU LEARNED THAT THERANOS WAS
01:50PM 6 USING THIRD PARTY DEVICES TO RUN FINGERSTICK SAMPLES WAS IN
01:50PM 7 2005, AROUND THE TIME OF "THE WALL STREET JOURNAL"; IS THAT
01:50PM 8 RIGHT?

01:50PM 9 A. THAT IS WHEN I HEARD THE CLAIM FOR THE FIRST TIME, 2015,
01:51PM 10 WITH THE ARTICLE, BUT I REMEMBER LEARNING IT IN MEETINGS IN
01:51PM 11 2016.

01:51PM 12 Q. OKAY. SO AGAIN, IT'S BEEN A LONG TIME SINCE YOU WORKED AT
01:51PM 13 THERANOS, SO LET'S TAKE A LOOK AT THIS EMAIL. THIS IS ONE THAT
01:51PM 14 THE GOVERNMENT SHOWED YOU.

01:51PM 15 AND WHAT THE GOVERNMENT SHOWED YOU IS ON PAGE 1 OF THIS
01:51PM 16 EMAIL. IT RELATES TO DEMO WORKFLOW. THIS IS AUGUST 2013. AND
01:51PM 17 THE EMAIL IS FROM NICHOLAS HAASE.

01:51PM 18 WHO WAS HE, AGAIN?

01:51PM 19 A. A SCIENTIST.

01:51PM 20 Q. OKAY. AND IT'S TO YOU, DR. YOUNG, AND ALL OF THESE
01:51PM 21 SCIENTISTS THAT WE HAVE ALREADY GONE THROUGH, ALSO COPYING
01:51PM 22 JEFF BLICKMAN.

01:51PM 23 HE WAS ON THE PRODUCT MANAGEMENT TEAM AS WELL; RIGHT?

01:51PM 24 A. YES.

01:51PM 25 Q. OKAY. AND MR. HAASE SAYS, "UPDATE: WE JUST STARTED THE

01:51PM 1 ADVIA RUN OF ALL SAMPLES."

01:51PM 2 DO YOU SEE THAT?

01:51PM 3 A. YES.

01:51PM 4 Q. OKAY. AND IF WE TURN NOW TO PAGE 2 OF THE EXHIBIT IN THE

01:51PM 5 MIDDLE AT 10:53 A.M. THERE'S AN EMAIL FROM YOU TO ALL OF THESE

01:52PM 6 PEOPLE AND IT SAYS, "HI ALL -- WE WILL BE COLLECTING

01:52PM 7 FINGERSTICK SAMPLES VERY SOON. PLEASE BE ON STANDBY."

01:52PM 8 DO YOU SEE THAT?

01:52PM 9 A. YES.

01:52PM 10 Q. AND SO THIS IS AN INSTANCE WHEN FINGERSTICK SAMPLES ARE

01:52PM 11 BEING RUN ON THE ADVIA; RIGHT?

01:52PM 12 A. ARE YOU ASKING ME IF THAT IS WHAT HAPPENED KNOWING WHAT I

01:52PM 13 KNOW NOW OR JUST BASED ON WHAT I KNEW AT THE TIME?

01:52PM 14 Q. JUST BASED ON THIS EMAIL.

01:52PM 15 A. RIGHT.

01:52PM 16 Q. THIS IS AN EMAIL SHOWING -- AND YOU'RE ON THE EMAIL;

01:52PM 17 RIGHT?

01:52PM 18 A. RIGHT.

01:52PM 19 Q. AND AN EMAIL SHOWING THAT THE COMMERCIAL MACHINE WAS USED,

01:52PM 20 THE ADVIA; RIGHT?

01:52PM 21 A. RIGHT.

01:52PM 22 Q. AND -- BUT IT WAS USED TO RUN FINGERSTICK SAMPLES; RIGHT?

01:52PM 23 A. RIGHT.

01:52PM 24 Q. AND SO YOU'RE ON THIS EMAIL AT THE TIME. THE EMAIL

01:52PM 25 INDICATES THAT YOU WERE AWARE OF THAT; RIGHT?

01:52PM 1 A. I AM COPIED ON THE EMAIL. I DON'T KNOW IF I WAS -- I

01:53PM 2 DON'T THINK I WAS AWARE OF THAT, THOUGH.

01:53PM 3 Q. MEANING YOU WEREN'T KIND OF PUTTING THE TWO TOGETHER AND

01:53PM 4 DRAWING A CONCLUSION?

01:53PM 5 A. CORRECT.

01:53PM 6 Q. BUT -- SO IT'S CLEAR, BACK IN 2013 YOU WERE CLEARLY ON

01:53PM 7 THIS EMAIL WHERE THE ADVIA WAS BEING USED TO RUN FINGERSTICK

01:53PM 8 SAMPLES; RIGHT?

01:53PM 9 A. YES.

01:53PM 10 Q. AND MS. -- THE GOVERNMENT ASKED YOU ABOUT COMMERCIAL

01:53PM 11 MACHINES, ONE OF THEM BEING THE ADVIA; RIGHT?

01:53PM 12 A. CORRECT.

01:53PM 13 Q. BUT THERANOS MODIFIED THOSE MACHINES TO RUN FINGERSTICK

01:53PM 14 SAMPLES; CORRECT?

01:53PM 15 A. YES.

01:53PM 16 Q. AND WHAT THEY DID -- WHAT THERANOS DID, WAS IT CHANGED

01:53PM 17 SOME OF THE SOFTWARE IN CONNECTION WITH THE MACHINE; RIGHT?

01:53PM 18 A. I DON'T KNOW THE SPECIFICS, BUT, YES.

01:54PM 19 Q. OKAY. AND IT MADE -- WHATEVER CHANGES IT MADE, THERANOS

01:54PM 20 CAME UP WITH THOSE CHANGES AND CHANGED THOSE COMMERCIAL

01:54PM 21 MACHINES; RIGHT?

01:54PM 22 A. I DON'T KNOW HOW THE DECISIONS CAME ABOUT.

01:54PM 23 Q. RIGHT. BUT PUT ASIDE THE HOW. THEY MODIFIED THE

01:54PM 24 MACHINES; CORRECT?

01:54PM 25 A. CORRECT.

01:54PM 1 Q. AND THE REASON FOR MODIFYING THOSE MACHINES, WAS SO THOSE
01:54PM 2 COMMERCIAL MACHINES COULD RUN FINGERSTICK SAMPLES; RIGHT?

01:54PM 3 A. RIGHT.

01:54PM 4 Q. THE MACHINES, IF YOU DON'T MODIFY THEM, WOULD HAVE RUN
01:54PM 5 VENOUS SAMPLES; CORRECT?

01:54PM 6 A. I BELIEVE SO.

01:54PM 7 Q. AND VENOUS SAMPLES ARE TAKEN FROM THE ARM; RIGHT?

01:54PM 8 A. RIGHT.

01:54PM 9 Q. AND THAT'S DIFFERENT FROM FINGERSTICK, TAKING FROM THE
01:54PM 10 FINGER; RIGHT?

01:54PM 11 A. RIGHT.

01:54PM 12 Q. OKAY. OKAY. WE CAN TAKE THAT DOWN.

01:55PM 13 LET'S LOOK AT ANOTHER EXAMPLE, 1157, WHICH IS IN EVIDENCE,
01:55PM 14 SO WE CAN PUBLISH THAT.

01:55PM 15 SO HERE'S ANOTHER EXAMPLE IN 2013. IF WE LOOK AT PAGE 1,
01:55PM 16 MR. EDLIN, THIS IS GOING TO BE ON THE SCREEN.

01:55PM 17 PAUL PATEL IN THE MIDDLE EMAILS YOU, AND DR. YOUNG, AND
01:55PM 18 DR. PANGARKAR, AND DR. SIVARAMAN.

01:55PM 19 "DANIEL,
01:55PM 20 "ARE WE EXPECTING TO RUN THIS SAMPLE ON THE ADVIA?"
01:55PM 21 DO YOU SEE THAT?

01:55PM 22 A. YES.

01:55PM 23 Q. AND THE ADVIA IS THE COMMERCIAL MACHINE. YOU TESTIFIED TO
01:55PM 24 THAT; RIGHT?

01:55PM 25 A. YES. AND PAUL IS ASKING DANIEL YOUNG HERE. AS WE

01:55PM 1 ESTABLISHED, I WENT BY DAN AND HE WENT BY DANIEL.

01:56PM 2 Q. CORRECT. SO DANIEL IS DANIEL YOUNG, AND YOU'RE DAN.

01:56PM 3 SO HE'S ASKING DR. YOUNG; RIGHT?

01:56PM 4 A. RIGHT.

01:56PM 5 Q. AND THIS IS THE PART OF THE EMAIL THAT THE GOVERNMENT

01:56PM 6 SHOWED YOU; RIGHT?

01:56PM 7 A. RIGHT.

01:56PM 8 Q. AND THEN IF WE TURN TO PAGE 2, WHICH THE GOVERNMENT DIDN'T

01:56PM 9 SHOW YOU, THE EMAIL FROM YOU TO ALL OF THESE PEOPLE REGARDING

01:56PM 10 THE DEMO TOMORROW MORNING YOU SAY, "PLEASE NOTE THAT WE HAVE A

01:56PM 11 PATIENT COMING IN TOMORROW MORNING FOR A DEMO FROM 9:00 TO

01:56PM 12 10:00, AND THE FINGERSTICK COLLECTION WILL LIKELY BE AT 10:00

01:56PM 13 A.M."

01:56PM 14 DO YOU SEE THAT?

01:56PM 15 A. YES.

01:56PM 16 Q. AND SO THIS IS ANOTHER EXAMPLE OF FINGERSTICK BEING RUN ON

01:56PM 17 ADVIA MACHINES; RIGHT?

01:56PM 18 A. UM, I THINK I'M WRITING IN REFERENCE TO -- CAN YOU REPEAT

01:57PM 19 THE QUESTION?

01:57PM 20 Q. SURE.

01:57PM 21 THE EMAIL REFERS TO, ON THE FIRST PAGE, TO AN ADVIA;

01:57PM 22 RIGHT? AN ADVIA MACHINE?

01:57PM 23 A. RIGHT.

01:57PM 24 Q. AND FOR THE SAME DEMO ON PAGE 2, YOU'RE SAYING THAT THE

01:57PM 25 SAMPLES ARE GOING TO BE FINGERSTICK COLLECTION.

01:57PM 1 DO YOU SEE THAT?

01:57PM 2 A. YES.

01:57PM 3 Q. AND SO THIS IS ANOTHER EMAIL SHOWING FINGERSTICK SAMPLES

01:57PM 4 BEING RUN ON THE ADVIA; RIGHT?

01:57PM 5 A. WELL, THE ADVIA WAS REFERENCING THE FIRST SET OF SAMPLES

01:57PM 6 THAT WERE RUN, AND THEN THIS IS DESCRIBING A DIFFERENT DEMO

01:57PM 7 THAT IS BEING RUN IN THE FUTURE.

01:57PM 8 SO I DON'T THINK THERE'S ANY DISCUSSION ABOUT HOW THESE

01:57PM 9 SAMPLES ARE RUN.

01:57PM 10 Q. OKAY. SO AT 2:11 P.M. YOU SAY TO THIS GROUP OF PEOPLE,

01:58PM 11 "HELLO ALL,

01:58PM 12 "PLEASE NOTE THAT WE HAVE A PATIENT COMING IN."

01:58PM 13 AND IT'S GOING TO BE A FINGERSTICK COLLECTION; RIGHT?

01:58PM 14 A. RIGHT.

01:58PM 15 Q. AND THEN THERE'S A QUESTION FROM MATTHEW BLACK, "IF YOU

01:58PM 16 FIND OUT, PLEASE LET US KNOW WHAT FORMAT THIS WILL COME IN";

01:58PM 17 RIGHT?

01:58PM 18 DO YOU SEE THAT?

01:58PM 19 A. YES.

01:58PM 20 Q. OKAY. AND THEN AN EMAIL FROM DR. PANGARKAR, "PLEASE

01:58PM 21 ADVISE"; RIGHT?

01:58PM 22 AT THE BOTTOM OF PAGE 1.

01:58PM 23 A. YES.

01:58PM 24 Q. AND THEN THE NEXT EMAIL UP YOU SAY, "DANIEL -- CAN YOU

01:58PM 25 PLEASE ADVISE IF WE NEED TO USE RAM SCIENTIFIC TUBES."

01:58PM 1 DO YOU SEE THAT?

01:58PM 2 A. YES.

01:58PM 3 Q. AND THEN DR. PATEL SAYS, "DANIEL,

01:59PM 4 "ARE WE EXPECTING TO RUN THIS SAMPLE ON THE ADVIA?"

01:59PM 5 DO YOU SEE THAT?

01:59PM 6 A. YES.

01:59PM 7 Q. AND MY ONLY QUESTION IS, THIS IS AN EMAIL CONTAINING A

01:59PM 8 DISCUSSION ABOUT RUNNING FINGERSTICK SAMPLES ON THE ADVIA;

01:59PM 9 RIGHT?

01:59PM 10 A. RIGHT.

01:59PM 11 Q. OKAY. AND THIS IS ANOTHER EXAMPLE OF THE DISCUSSION AT

01:59PM 12 LEAST OF FINGERSTICK SAMPLES ON ADVIA'S; RIGHT?

01:59PM 13 A. YES.

01:59PM 14 Q. AND WHEN FINGERSTICK SAMPLES ARE BEING RUN ON ADVIA'S,

01:59PM 15 THEY'RE MODIFIED MACHINES; CORRECT?

01:59PM 16 A. THAT'S MY UNDERSTANDING.

01:59PM 17 Q. RIGHT. AND YOUR UNDERSTANDING IS THAT THOSE MODIFICATIONS

01:59PM 18 WERE MADE BY THERANOS; RIGHT?

01:59PM 19 A. RIGHT.

01:59PM 20 Q. OKAY. LET'S TAKE A LOOK AT 871 THAT IS ON THE SCREEN.

02:00PM 21 IT IS IN EVIDENCE, YOUR HONOR.

02:00PM 22 THE COURT: ALL RIGHT.

02:00PM 23 BY MS. WALSH:

02:00PM 24 Q. DO YOU SEE 871, MR. EDLIN?

02:00PM 25 A. YES.

02:00PM 1 Q. OKAY. AND THIS IS AN EMAIL THAT THE GOVERNMENT SHOWED YOU
02:00PM 2 LAST WEEK. THIS RELATES TO A DEMO.
02:00PM 3 DO YOU SEE THAT?
02:00PM 4 A. YES.
02:00PM 5 Q. AND WE CAN START -- LET'S START WITH THE EMAIL ON PAGE 2
02:00PM 6 FROM DANIEL YOUNG, SECOND FROM THE TOP.
02:00PM 7 DANIEL YOUNG IS ASKING, "ANY PREFERENCE FOR DEVICE TYPE
02:01PM 8 (MONOBAY, MINILAB, 4S)?"
02:01PM 9 DO YOU SEE THAT?
02:01PM 10 A. YES.
02:01PM 11 Q. AND THOSE ARE ALL NEXT GENERATION DEVICES; RIGHT?
02:01PM 12 A. CORRECT.
02:01PM 13 Q. AND CHRISTIAN HOLMES SAYS, "NO PREFERENCE -- WHATEVER YOU
02:01PM 14 THINK IS BEST FOR THE PANEL/TESTS THAT ARE CHOSEN."
02:01PM 15 DO YOU SEE THAT?
02:01PM 16 A. YES.
02:01PM 17 Q. AND THEN YOU SAY, "JUST CAUGHT UP WITH SUNNY. HE
02:01PM 18 DEFINITELY WANTS TO HAVE A MINILAB, AND THEN EITHER A 4S OR
02:01PM 19 MONOBAY (WHICHEVER IS WORKING BETTER)"; RIGHT?
02:01PM 20 A. YES.
02:01PM 21 Q. AND AGAIN, THESE ARE NEXT GENERATION DEVICES; CORRECT?
02:01PM 22 A. CORRECT.
02:01PM 23 Q. AND THE ASSAYS PUT ON THEM, SOME OF THEM ARE STILL IN
02:01PM 24 DEVELOPMENT; RIGHT?
02:01PM 25 A. RIGHT.

02:01PM 1 Q. AND IT'S R&D; RIGHT?

02:01PM 2 A. RIGHT.

02:01PM 3 Q. OKAY. LET'S GO TO PAGE 1, THE EMAIL FROM DANIEL YOUNG,

02:02PM 4 THE SECOND FROM THE TOP.

02:02PM 5 DANIEL YOUNG SAYS, "RIGHT NOW, WE ARE NOT PLANNING ON

02:02PM 6 RUNNING ANYTHING ON THE MINILAB, UNFORTUNATELY."

02:02PM 7 THIS IS ON THE MINILAB; RIGHT?

02:02PM 8 A. YES.

02:02PM 9 Q. "THE GENERAL CHEMISTRY AND ELISA ASSAYS ARE NOT PERFORMING

02:02PM 10 ADEQUATELY FOR A DEMO AT THE MOMENT"; RIGHT?

02:02PM 11 A. RIGHT.

02:02PM 12 Q. AND THEN MR. BALWANI SAYS, "THAT'S VERY FRUSTRATING";

02:02PM 13 RIGHT?

02:02PM 14 A. RIGHT.

02:02PM 15 Q. AND MR. BALWANI SPECIFICALLY ASKED FOR A MINILAB TO BE

02:02PM 16 SHOWN; RIGHT?

02:02PM 17 CORRECT?

02:02PM 18 A. CAN YOU JUST -- LET ME SEE IT ONE MORE TIME.

02:02PM 19 Q. I'M SORRY. IT'S ON PAGE 2.

02:02PM 20 A. YEAH.

02:02PM 21 Q. YOU SAY JUST CAUGHT UP WITH SUNNY. HE DEFINITELY WANTS A

02:02PM 22 MINILAB.

02:02PM 23 DO YOU SEE THAT?

02:02PM 24 A. YES.

02:02PM 25 Q. AND DANIEL YOUNG IS SAYING SORRY, BUT THE GENERAL

02:02PM 1 CHEMISTRY AND THE ELISA ASSAYS ARE NOT RUNNING ON THE MINILAB;
02:02PM 2 IS THAT RIGHT?
02:02PM 3 A. RIGHT.
02:02PM 4 Q. AND SO HE'S FRUSTRATED THAT THEY CAN'T RUN THOSE
02:02PM 5 PARTICULAR ASSAYS ON THE MINILAB AT THAT POINT IN TIME;
02:03PM 6 CORRECT?
02:03PM 7 A. YES.
02:03PM 8 Q. OKAY. WE CAN TAKE THAT DOWN.
02:03PM 9 THERE'S ONE MORE, AND THEN WE CAN TAKE THE BREAK.
02:03PM 10 YOUR HONOR, IF WE CAN LOOK AT WHAT IS ON THE SCREEN 1014
02:03PM 11 WHICH IS IN EVIDENCE?
02:03PM 12 THE COURT: 1014?
02:03PM 13 MS. WALSH: YES.
02:03PM 14 THE COURT: ALL RIGHT.
02:04PM 15 BY MS. WALSH:
02:04PM 16 Q. OKAY. MR. EDLIN, IF YOU WOULD LOOK AT PAGE 2, THE TOP OF
02:04PM 17 PAGE 2, YOU'RE SAYING TO MR. BALWANI, "SUNNY,
02:04PM 18 "UNFORTUNATELY BY THE LOOKS OF THE THYROID PANEL RESULTS
02:04PM 19 BELOW IT APPEARS TO HAVE HAD MAJOR ISSUES AGAIN."
02:04PM 20 DO YOU SEE THAT?
02:04PM 21 A. YES.
02:04PM 22 Q. AND THEN MR. BALWANI SAYS THIS IS DEEPLY DISAPPOINTING.
02:04PM 23 DO YOU SEE THAT?
02:04PM 24 A. YES.
02:04PM 25 Q. AND THEN DR. GANGADKHEDKAR SAYS, "HI SUNNY,

02:04PM 1 "THIS CARTRIDGE WAS A RECENT BUILD."

02:04PM 2 DO YOU SEE THAT?

02:04PM 3 SHE'S TALKING ABOUT EVAPORATION OF REAGENTS.

02:04PM 4 DO YOU SEE THAT?

02:04PM 5 A. YES.

02:04PM 6 Q. AND SHE SAYS, "THE LAST TIME THIS LOT WAS USED WAS FOR THE

02:04PM 7 DEMO ON 8/13 WHERE ALL THE RUNS WENT WELL WITH NO FAILURES."

02:05PM 8 DO YOU SEE THAT?

02:05PM 9 A. YES.

02:05PM 10 Q. OKAY. BUT THIS DEMONSTRATION, AGAIN, WAS A NEXT

02:05PM 11 GENERATION DEMONSTRATION, WASN'T IT?

02:05PM 12 AND IF YOU COULD, JUST TO ORIENT YOU, MR. EDLIN, LOOK AT

02:05PM 13 THE DEVICES THAT ARE PUT IN THE DEMO ARE TWO MINILABS, ONE 4S.

02:05PM 14 DO YOU SEE THAT?

02:05PM 15 A. AND 1.35?

02:05PM 16 Q. RIGHT.

02:05PM 17 SO NEXT GENERATION PLUS?

02:05PM 18 A. OR CURRENT GENERATION AND NEXT GENERATION, RIGHT.

02:05PM 19 Q. RIGHT.

02:05PM 20 BUT THERE ARE 4S'S AND WHAT YOU DESCRIBED AS THE NEXT

02:05PM 21 GENERATION DEVICES IN THE ROOM; RIGHT?

02:06PM 22 A. YES.

02:06PM 23 Q. OKAY. OKAY. WE CAN TAKE THAT DOWN.

02:06PM 24 YOUR HONOR, WOULD THIS BE A GOOD TIME TO BREAK?

02:06PM 25 THE COURT: SURE. LET'S DO THAT.

02:06PM 1 LET'S TAKE A BREAK, LADIES AND GENTLEMEN, NOW.

02:06PM 2 WE'LL BE BACK IN ABOUT 25 TO 30 MINUTES.

02:06PM 3 (RECESS FROM 2:06 P.M. UNTIL 2:40 P.M.)

02:40PM 4 THE COURT: WE'RE BACK ON THE RECORD.

02:40PM 5 THE JURY IS PRESENT.

02:40PM 6 ALL COUNSEL ARE PRESENT.

02:40PM 7 MS. WALSH.

02:40PM 8 MS. WALSH: YES. THANK YOU.

02:40PM 9 Q. OKAY. WELCOME BACK, MR. EDLIN.

02:40PM 10 A. THANK YOU.

02:40PM 11 Q. ALL RIGHT. SO I WANT TO TURN NOW TO SOME DEMOS THAT YOU

02:40PM 12 COORDINATED IN CONNECTION WITH WALGREENS EXECUTIVES COMING IN

02:41PM 13 TO THERANOS IN THE SUMMER OF 2013. OKAY?

02:41PM 14 A. OKAY.

02:41PM 15 Q. BEFORE THOSE EXECUTIVES CAME IN -- I THINK IT WAS

02:41PM 16 AUGUST 2013; RIGHT?

02:41PM 17 A. YES.

02:41PM 18 Q. OKAY. AND THAT WAS A MONTH BEFORE THE WALGREENS ROLLOUT;

02:41PM 19 RIGHT?

02:41PM 20 A. YES.

02:41PM 21 Q. APPROXIMATELY?

02:41PM 22 A. YES.

02:41PM 23 Q. OKAY. BEFORE WALGREENS EXECUTIVES CAME IN FOR THOSE DEMOS

02:41PM 24 IN AUGUST 2013, WALGREENS WAS ALREADY IN POSSESSION OF A

02:41PM 25 THERANOS DEVICE, WASN'T IT?

02:41PM 1 A. I RECALL THAT THEY DID HAVE A DEVICE AT ONE TIME, BUT I'M
02:41PM 2 NOT SURE ABOUT THE TIMING.

02:41PM 3 Q. OKAY. SO IF YOU COULD TURN IN YOUR BINDER TO 20550.

02:42PM 4 A. OKAY.

02:42PM 5 Q. OKAY. AND THIS IS AN EMAIL CHAIN BETWEEN YOU AND
02:42PM 6 MR. BALWANI AND TIM KEMP.

02:42PM 7 DO YOU SEE THAT?

02:42PM 8 A. YES.

02:42PM 9 Q. AND WHO IS TIM KEMP?

02:42PM 10 A. TIM KEMP, I BELIEVE HE WAS A FELLOW AT THERANOS.

02:43PM 11 Q. OKAY. AND TONY NUGENT WAS ON THIS CHAIN.

02:43PM 12 DO YOU SEE THAT?

02:43PM 13 A. YES.

02:43PM 14 Q. AND WHO WAS TONY NUGENT?

02:43PM 15 A. HE WORKED ON THE DEVICE HARDWARE.

02:43PM 16 Q. OKAY. AND THERE'S A PERSON NAMED SUKHDEV BAINIWAL.

02:43PM 17 DO YOU SEE THAT?

02:43PM 18 A. YES.

02:43PM 19 Q. WHO WAS THAT PERSON?

02:43PM 20 A. HE WORKED ON THE SOFTWARE TEAM.

02:43PM 21 Q. OKAY. AND WAS IT PART OF YOUR JOB TO ANSWER QUESTIONS
02:43PM 22 FROM DIFFERENT TEAMS REGARDING THERANOS DEVICES AND LOGISTICS
02:43PM 23 OF DEVICES, WAS THAT PART OF YOUR JOB TO ANSWER THOSE
02:43PM 24 QUESTIONS?

02:43PM 25 A. TO ANSWER QUESTIONS FROM WHICH TEAMS?

02:43PM 1 Q. THE HARDWARE TEAMS?

02:43PM 2 A. I'M NOT SURE IF I WOULD CHARACTERIZE IT AS ANSWERING

02:43PM 3 QUESTIONS FROM THEM.

02:43PM 4 Q. OKAY. THIS EMAIL, THOUGH, IS ABOUT HARDWARE DEVICES;

02:44PM 5 RIGHT?

02:44PM 6 A. I'M JUST TAKING A LOOK.

02:44PM 7 Q. SURE.

02:44PM 8 (PAUSE IN PROCEEDINGS.)

02:44PM 9 THE WITNESS: I THINK THIS REFERS TO THE LOCATIONS

02:44PM 10 OF DEVICES THAT WERE EITHER IN USE OR SENT OUTSIDE OF THE

02:44PM 11 COMPANY --

02:44PM 12 BY MS. WALSH:

02:44PM 13 Q. OKAY.

02:44PM 14 A. -- TO VARIOUS LOCATIONS.

02:44PM 15 Q. AND CORRESPONDING IN THIS EMAIL CHAIN, WERE YOU TRYING TO

02:44PM 16 BE AS ACCURATE AS YOU COULD BE?

02:44PM 17 A. YES.

02:44PM 18 Q. AND, AGAIN, EMAILS LIKE THIS WERE USED DURING THE COURSE

02:44PM 19 OF THERANOS'S BUSINESS; CORRECT?

02:44PM 20 A. YES.

02:44PM 21 Q. AND THOSE EMAILS WERE PRESERVED; RIGHT?

02:44PM 22 A. YES.

02:44PM 23 MS. WALSH: YOUR HONOR, WE OFFER 20550.

02:45PM 24 MR. BOSTIC: NO OBJECTION.

02:45PM 25 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

02:45PM 1 (DEFENDANT'S EXHIBIT 20550 WAS RECEIVED IN EVIDENCE.)

02:45PM 2 BY MS. WALSH:

02:45PM 3 Q. OKAY. LET'S TURN TO PAGE 4 ON THAT EXHIBIT AND THE BOTTOM

02:45PM 4 EMAIL FROM MR. NUGENT.

02:45PM 5 DO YOU SEE THAT?

02:45PM 6 A. YES.

02:45PM 7 Q. AND THAT'S TO MR. BALWANI; RIGHT?

02:45PM 8 A. YES.

02:45PM 9 Q. AND THE DATE IS JULY 10TH, 2013; RIGHT?

02:45PM 10 A. YES.

02:45PM 11 Q. AND THE SUBJECT IS SUMMARY OF HISTORICAL EDISON NUMBERS SO

02:45PM 12 WE HAVE A FIXED POINT OF REFERENCE ON NUMBERS GOING FORWARD.

02:45PM 13 DO YOU SEE THAT?

02:45PM 14 A. YES.

02:45PM 15 Q. AND THEN MR. NUGENT LISTS "NUMBERS OF 3.0/3.05 EDISONS."

02:45PM 16 DO YOU SEE THAT?

02:45PM 17 A. YES.

02:45PM 18 Q. AND THOSE VERSIONS OF THE DEVICE WERE OLDER VERSIONS, WERE

02:46PM 19 THEY NOT?

02:46PM 20 A. THEY WERE.

02:46PM 21 Q. AND THEN THE THIRD HEADING DOWN SAYS, "FROM PHYSICAL COUNT

02:46PM 22 NEWARK AND 1601, 9-JULY-2013 AND ESTIMATE OF UNITS OUTSIDE";

02:46PM 23 RIGHT?

02:46PM 24 A. YES.

02:46PM 25 Q. AND THEN THE BOTTOM SAYS, "ESTIMATED NUMBER OF 3.0/3.05

02:46PM 1 DEPLOYED EXTERNALLY."

02:46PM 2 DO YOU SEE THAT?

02:46PM 3 A. YES.

02:46PM 4 Q. AND THEN IN THE BOTTOM EMAIL MR. BALWANI ASKS TIM KEMP,

02:46PM 5 "TIM,

02:46PM 6 "CAN YOU LOOK AT THE LOG FILES AND ACCOUNT FOR THE

02:46PM 7 25 UNITS HIGHLIGHTED THAT WE THINK ARE EXTERNAL. 1 OF THESE IS

02:46PM 8 AT WALGREENS AND AM CC'ING CHRISTIAN HERE SO WE CAN BRING THAT

02:46PM 9 IN. DAN MAY KNOW MORE IN FIELD AT ABA ET CETERA."

02:47PM 10 DO YOU SEE THAT?

02:47PM 11 A. YES.

02:47PM 12 Q. AND YOU WERE THE DAN IN THAT EMAIL; RIGHT?

02:47PM 13 A. YES.

02:47PM 14 Q. AND WHAT IS FOR THE ABA?

02:47PM 15 A. IT'S FOR THE AMERICAN BURN ASSOCIATION, AND THERANOS HAD

02:47PM 16 PARTNERED WITH THEM ON THE BURN STUDY THAT I HAD REFERENCED

02:47PM 17 EARLIER IN MY TESTIMONY.

02:47PM 18 Q. RIGHT. AND WE'LL LOOK AT SOME EMAILS REGARDING THAT.

02:47PM 19 BUT THAT WAS A STUDY WHERE THERANOS DEVICES WERE SENT TO A

02:47PM 20 NUMBER OF DIFFERENT HOSPITALS AROUND THE COUNTRY; RIGHT?

02:47PM 21 A. RIGHT.

02:47PM 22 Q. AND THOSE DEVICES WERE USED IN THOSE HOSPITALS; CORRECT?

02:47PM 23 A. YES.

02:47PM 24 Q. FOR THE PURPOSES OF THE STUDY; RIGHT?

02:47PM 25 A. YES.

02:47PM 1 Q. MOVING UP THE PAGE FROM PAGE 2 FROM TIM KEMP TO

02:47PM 2 MR. BALWANI COPYING YOU.

02:47PM 3 MR. KEMP SAYS ON THE FIRST LINE, "READER E000347 IS STILL

02:47PM 4 REGISTERED AS BEING AT WALGREENS."

02:48PM 5 DO YOU SEE THAT?

02:48PM 6 A. YES.

02:48PM 7 Q. OKAY. AND THE READER IS ANOTHER WORD FOR THE DEVICE

02:48PM 8 ITSELF; RIGHT?

02:48PM 9 A. YES.

02:48PM 10 Q. SO THAT'S REFERRING TO THE EDISON; RIGHT?

02:48PM 11 A. YES.

02:48PM 12 Q. AND AS YOU JUST TESTIFIED TO, IT'S AN OLDER VERSION OF THE

02:48PM 13 EDISON; CORRECT?

02:48PM 14 A. YES.

02:48PM 15 Q. OKAY. AND MR. KEMP IS SAYING IT'S STILL REGISTERED AS

02:48PM 16 BEING IN WALGREENS.

02:48PM 17 DO YOU SEE THAT?

02:48PM 18 A. YES.

02:48PM 19 Q. OKAY. WE CAN TAKE THAT DOWN.

02:48PM 20 AND SO WALGREENS HAD A THERANOS DEVICE ALREADY IN ITS

02:48PM 21 POSSESSION BY AUGUST 2013; CORRECT?

02:48PM 22 A. ACCORDING TO THAT LAST EMAIL THAT WE REVIEWED, YES.

02:48PM 23 Q. RIGHT.

02:48PM 24 A. YES.

02:48PM 25 Q. RIGHT. AND IT HAD AN OLDER VERSION OF THE DEVICE; RIGHT?

02:48PM 1 A. YES.

02:48PM 2 Q. OKAY. AND THEN IT COMES TIME THAT WALGREENS EXECUTIVES

02:49PM 3 COME INTO THERANOS IN 2013; RIGHT?

02:49PM 4 A. YES.

02:49PM 5 Q. AND THEY COME THERE FOR A DEMO; RIGHT?

02:49PM 6 A. YES.

02:49PM 7 Q. OKAY. SO LET'S LOOK AT EXHIBIT 959, WHICH IS IN EVIDENCE.

02:49PM 8 THAT IS GOING TO COME UP ON YOUR SCREEN WHEN WE PUBLISH

02:49PM 9 IT, MR. EDLIN.

02:49PM 10 A. OKAY. I SEE IT.

02:49PM 11 Q. OKAY. AND IF WE TURN TO PAGE 2 AND LOOK AT THE SUBJECT

02:50PM 12 LINE, DEMO ON 8/13.

02:50PM 13 DO YOU SEE THAT?

02:50PM 14 A. YES.

02:50PM 15 Q. AND THAT'S THE WALGREENS DEMO; RIGHT?

02:50PM 16 A. YES.

02:50PM 17 Q. AND THE SUBJECT LINE SAYS 4S AND MINILAB.

02:50PM 18 DO YOU SEE THAT?

02:50PM 19 A. YES.

02:50PM 20 Q. AND SO THE WALGREENS DEMO INVOLVED NEXT GENERATION DEVICES

02:50PM 21 IN AUGUST OF 2013; RIGHT?

02:50PM 22 A. YES.

02:50PM 23 Q. THE 4S AND THE MINILAB WERE NEXT GENERATION; CORRECT?

02:50PM 24 A. CORRECT.

02:50PM 25 Q. OKAY. AND AS FAR AS YOU'RE AWARE -- WE TALKED ABOUT THIS

02:50PM 1 CENTRAL LAB MODEL -- AS FAR AS YOU'RE AWARE, THE 4S AND THE
02:50PM 2 MINILAB, AT THIS POINT IN TIME IN AUGUST OF 2013, WERE NOT
02:50PM 3 GOING TO BE PLACED IN WALGREENS; RIGHT?

02:50PM 4 A. CAN YOU JUST REPEAT THE FIRST PART OF THAT QUESTION?

02:50PM 5 Q. SURE.

02:50PM 6 IN AUGUST OF 2013 WHEN WALGREENS IS COMING IN FOR THAT
02:50PM 7 DEMO --

02:50PM 8 A. RIGHT.

02:50PM 9 Q. -- AS FAR AS YOU'RE AWARE, THE NEXT GENERATION DEVICES,
02:51PM 10 THE 4S AND THE MINILAB, ARE NOT GOING TO BE PLACED INSIDE
02:51PM 11 WALGREENS; IS THAT CORRECT?

02:51PM 12 A. ARE YOU ASKING ME IF THEY WERE GOING TO BE PLACED THERE AT
02:51PM 13 SOME POINT IN THE FUTURE, OR AT THAT PERIOD OF TIME?

02:51PM 14 Q. AT THAT PERIOD OF TIME?

02:51PM 15 A. NO. THE COMPANY WAS PREPARING FOR THE CENTRALIZED LAB
02:51PM 16 MODEL.

02:51PM 17 Q. OKAY. IF YOU COULD TURN TO 966A IN YOUR BINDER.

02:52PM 18 DO YOU SEE THAT?

02:52PM 19 A. YES.

02:52PM 20 Q. 966A IS AN EMAIL THAT WE HAVE ALREADY SEEN THAT IS IN
02:52PM 21 EVIDENCE AS 966, AND 966A HAS ONE OF THE LAB REPORTS ATTACHED,
02:52PM 22 WHICH HAS BEEN REDACTED FOR ALL OF THE PERSONAL INFORMATION.

02:52PM 23 DO YOU SEE THAT?

02:52PM 24 A. YES.

02:52PM 25 Q. OKAY.

02:52PM 1 YOUR HONOR, WE OFFER 966A?

02:52PM 2 MR. BOSTIC: APOLOGIES. I DON'T THINK I HAVE A COPY

02:52PM 3 OF THIS IN MY BINDER.

02:53PM 4 (DISCUSSION OFF THE RECORD.)

02:53PM 5 MR. BOSTIC: NO OBJECTION, YOUR HONOR.

02:53PM 6 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

02:53PM 7 (GOVERNMENT'S EXHIBIT 966A, AND REDACTED ATTACHMENT, WAS

02:53PM 8 RECEIVED IN EVIDENCE.)

02:53PM 9 BY MS. WALSH:

02:53PM 10 Q. OKAY. AND LET'S JUST GO TO THE SECOND PAGE OF THAT

02:53PM 11 EXHIBIT. IT'S PAGE 3 OF THE EXHIBIT.

02:53PM 12 AND THIS WAS THE LAB REPORT THAT WAS ATTACHED AS A RESULT

02:53PM 13 OF THE DEMO; CORRECT?

02:53PM 14 A. CORRECT.

02:53PM 15 Q. AND IF YOU LOOK AT THE TOP OF THAT REPORT, IT SAYS,

02:53PM 16 THERANOS TEST REPORT TECHNOLOGY DEMONSTRATION; RIGHT?

02:53PM 17 A. YES.

02:53PM 18 Q. AND THEN FURTHER DOWN IN THE FIRST BOX IT SAYS IN QUOTES

02:53PM 19 "TECHNOLOGY DEMONSTRATION"; RIGHT?

02:53PM 20 A. YES.

02:53PM 21 Q. AND IT SAYS THAT AGAIN IN THE SECOND BOX; RIGHT?

02:53PM 22 A. YES.

02:53PM 23 Q. AND THEN A THIRD TIME ALSO IN THE SECOND BOX?

02:53PM 24 DO YOU SEE THAT?

02:53PM 25 A. YES.

02:53PM 1 Q. OKAY. WE CAN TAKE THAT DOWN.

02:54PM 2 AND SO THE GOVERNMENT SHOWED YOU 966, EXHIBIT 966 LAST
02:54PM 3 WEEK, AND THAT'S WHERE DR. YOUNG WAS MAKING DECISIONS ABOUT
02:54PM 4 WHAT TESTS TO INCLUDE, WHAT RESULTS TO INCLUDE, AND WHAT NOT TO
02:54PM 5 INCLUDE; IS THAT RIGHT?

02:54PM 6 A. RIGHT.

02:54PM 7 Q. OKAY. AND AGAIN, YOU RELIED COMPLETELY ON HIM TO MAKE
02:54PM 8 THOSE DECISIONS; RIGHT?

02:54PM 9 A. YES.

02:54PM 10 Q. AND THAT WAS BASED ON HIS SCIENTIFIC EXPERTISE; RIGHT?

02:54PM 11 A. YES.

02:54PM 12 Q. AND ANY LITERATURE THAT HE MAY HAVE CONSULTED; RIGHT?

02:54PM 13 A. YES.

02:54PM 14 Q. AND WE SAW IN THE EXAMPLE OF THE NEW YORK HOSPITAL, HE DID
02:54PM 15 CONSULT WITH THE LITERATURE; RIGHT?

02:54PM 16 A. YES.

02:54PM 17 Q. OKAY. OKAY. MR. EDLIN, IF YOU CAN TURN IN YOUR BINDER TO
02:55PM 18 EXHIBIT 20536.

02:55PM 19 A. OKAY.

02:55PM 20 Q. DO YOU SEE THAT EMAIL?

02:55PM 21 A. YES.

02:55PM 22 Q. AND THAT'S AN EMAIL FROM YOU TO A GROUP OF PEOPLE WITHIN
02:55PM 23 THERANOS; RIGHT?

02:55PM 24 A. YES.

02:55PM 25 Q. MR. BALWANI IS ON THE EMAIL; CORRECT?

02:55PM 1 A. YES.

02:55PM 2 Q. AND THE DAY OF THE EMAIL IS NOVEMBER 14TH, 2013; RIGHT?

02:55PM 3 A. YES.

02:55PM 4 Q. AND THE SUBJECT LINE IS WAG SPECIMENS TONIGHT.

02:56PM 5 DO YOU SEE THAT?

02:56PM 6 A. YES.

02:56PM 7 Q. AND WAG REFERS TO WALGREENS; IS THAT CORRECT?

02:56PM 8 A. CORRECT.

02:56PM 9 Q. OKAY. AND SO THIS IS AFTER THE RETAIL LAUNCH; RIGHT?

02:56PM 10 A. RIGHT.

02:56PM 11 Q. AND I THINK YOU TESTIFIED LAST WEEK THAT THE FIRST TIME

02:56PM 12 THAT YOU LEARNED THAT BLOOD SAMPLES WERE BEING RUN ON

02:56PM 13 COMMERCIAL DEVICES WAS MUCH LATER THAN 2013.

02:56PM 14 DO YOU REMEMBER THAT?

02:56PM 15 A. THAT FINGERSTICK SAMPLES WERE, RIGHT.

02:56PM 16 Q. OKAY. AND YOU LEARNED THAT MUCH LATER?

02:56PM 17 THAT'S WHAT YOU TESTIFIED TO?

02:56PM 18 A. RIGHT.

02:56PM 19 Q. OKAY. TAKE A LOOK AT THIS EMAIL.

02:56PM 20 AND AGAIN, MR. EDLIN, I REALIZE THAT IT'S BEEN ALMOST TEN

02:56PM 21 YEARS SINCE YOU WORKED AT THERANOS, BUT TAKE A LOOK AT THIS

02:56PM 22 EMAIL.

02:56PM 23 IS THIS EMAIL CORRESPONDENCE IN CONNECTION WITH SOME

02:56PM 24 WALGREENS SPECIMENS THAT WERE COMING INTO THERANOS?

02:56PM 25 A. RIGHT.

02:56PM 1 Q. OKAY. AND IN THE MIDDLE PART OF THE EMAIL IT REFERS TO A
02:57PM 2 DEMO PATIENT.
02:57PM 3 DO YOU SEE THAT?
02:57PM 4 IT'S THE BOTTOM EMAIL, ONE, TWO -- THREE PARAGRAPHS DOWN.
02:57PM 5 DO YOU SEE THAT?
02:57PM 6 A. YES.
02:57PM 7 Q. OKAY.
02:57PM 8 YOUR HONOR, WE OFFER 20536.
02:57PM 9 MR. BOSTIC: NO OBJECTION.
02:57PM 10 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.
02:57PM 11 (DEFENDANT'S EXHIBIT 20536 WAS RECEIVED IN EVIDENCE.)
02:57PM 12 BY MS. WALSH:
02:57PM 13 Q. SO IF WE TAKE A LOOK AT THE BOTTOM EMAIL, MR. EDLIN, THIS
02:57PM 14 IS FROM MAX FOSQUE.
02:57PM 15 DO YOU SEE THAT?
02:57PM 16 A. YES.
02:57PM 17 Q. AND WHO WAS MAX FOSQUE?
02:57PM 18 A. HE WAS A PRODUCT MANAGER.
02:57PM 19 Q. OKAY. AND AS YOU SAID, THE DATE IS NOVEMBER 13TH, 2013;
02:57PM 20 RIGHT?
02:57PM 21 A. YES.
02:57PM 22 Q. AND IT'S ABOUT WALGREENS SPECIMENS COMING IN; RIGHT?
02:57PM 23 A. YES.
02:57PM 24 Q. AND THE OTHER PEOPLE ON THE EMAIL ARE DR. YOUNG; RIGHT?
02:57PM 25 A. YES.

02:57PM 1 Q. THE PRODUCT MANAGEMENT TEAM; CORRECT?

02:57PM 2 A. YES.

02:57PM 3 Q. MR. BALWANI; RIGHT?

02:58PM 4 A. YES.

02:58PM 5 Q. AND NORMANDY.

02:58PM 6 DO YOU SEE THAT?

02:58PM 7 A. YES.

02:58PM 8 Q. WHAT WAS THE NORMANDY EMAIL GROUP?

02:58PM 9 A. NORMANDY REFERRED TO A LAB, BUT I'M NOT EXACTLY SURE WHO

02:58PM 10 WAS WITHIN THAT DISTRIBUTION LIST.

02:58PM 11 Q. OKAY. AND WHAT THE EMAIL SAYS IS, "THE FIRST SET OF LIVE

02:58PM 12 SPECIMENS FROM PHOENIX HAVE BEEN DROPPED AT THE AIRPORT AND

02:58PM 13 WILL BE ARRIVING AT 1601 AROUND 8:30 P.M. THESE INCLUDE CTN'S

02:58PM 14 AND VACUTAINERS."

02:58PM 15 DO YOU SEE THAT?

02:58PM 16 A. YES.

02:58PM 17 Q. OKAY. AND WERE YOU AWARE THAT WALGREENS DEMOS -- THERE

02:58PM 18 WAS A SET OF WALGREENS DEMOS THAT OCCURRED IN NOVEMBER OF 2013

02:58PM 19 IN PHOENIX.

02:58PM 20 DO YOU RECALL THAT?

02:58PM 21 A. NO.

02:58PM 22 Q. OKAY. AND DIRECTING YOUR ATTENTION TO CTN'S AND

02:58PM 23 VACUTAINERS.

02:59PM 24 THE CTN'S WERE THE THINGS USED FOR FINGERSTICK TESTING;

02:59PM 25 RIGHT?

02:59PM 1 A. RIGHT.

02:59PM 2 Q. YOU EXPLAINED TO US HOW THAT WORKED; RIGHT?

02:59PM 3 A. RIGHT.

02:59PM 4 Q. AND VACUTAINER IS REFERRED TO VENOUS DRAWS; CORRECT?

02:59PM 5 A. RIGHT.

02:59PM 6 Q. OKAY. THE EMAIL CONTINUES. "ALL PATIENT AND PHYSICIAN

02:59PM 7 INFORMATION EXISTS IN LIS. FOR PATIENTS THAT HAD CTN'S

02:59PM 8 COLLECTED, PLEASE ENTER ALL RESULTS IN LIS."

02:59PM 9 THAT'S THE LABORATORY INFORMATION SYSTEM; RIGHT?

02:59PM 10 A. RIGHT.

02:59PM 11 Q. "AND GENERATE THE REPORT FROM LIS. FOR PATIENTS THAT HAD

02:59PM 12 VACUTAINERS COLLECTED, PLEASE PROCESS THESE ON CLUNKERS."

02:59PM 13 DO YOU SEE THAT?

02:59PM 14 A. YES.

02:59PM 15 Q. AND CLUNKERS REFERRED TO COMMERCIAL MACHINES; RIGHT?

02:59PM 16 A. I DON'T KNOW SPECIFICALLY.

02:59PM 17 Q. OKAY. YOU KNOW, THOUGH, THAT VENOUS DRAWS WERE PROCESSED

02:59PM 18 ON COMMERCIAL MACHINES; CORRECT?

02:59PM 19 A. CORRECT.

02:59PM 20 Q. OKAY. SO THIS EMAIL IS -- THIS EMAIL LAYS OUT SAMPLES

03:00PM 21 COMING IN FROM WALGREENS; RIGHT?

03:00PM 22 A. RIGHT.

03:00PM 23 Q. THEY'RE BOTH ON FINGERSTICK AND VENOUS DRAWS; RIGHT?

03:00PM 24 A. RIGHT.

03:00PM 25 Q. AND THEY'RE GOING TO BE PROCESSED ON WHAT ARE CALLED

03:00PM 1 CLUNKERS; RIGHT?

03:00PM 2 A. THIS IS WHAT MAX IS ASKING ABOUT. INDEPENDENT OF THIS

03:00PM 3 INSTRUCTION, I DIDN'T HAVE THE KNOWLEDGE OF HOW THE TESTS WERE

03:00PM 4 RUN.

03:00PM 5 Q. SURE. UNDERSTOOD.

03:00PM 6 BUT YOU ARE ON THIS EMAIL ABOUT VENOUS DRAWS BEING

03:00PM 7 PROCESSED IN THE LAB; CORRECT?

03:00PM 8 A. YES.

03:00PM 9 Q. AND IT WAS YOUR UNDERSTANDING THAT VENOUS DRAWS WERE

03:00PM 10 PROCESSED IN COMMERCIAL MACHINES; CORRECT?

03:00PM 11 A. RIGHT.

03:00PM 12 Q. OKAY. WE CAN TAKE THAT DOWN.

03:00PM 13 OKAY. MR. EDLIN, IF YOU COULD GO TO 20173 IN YOUR BINDER.

03:01PM 14 DO YOU SEE THAT?

03:01PM 15 A. YES.

03:01PM 16 Q. AND IS THAT AN EMAIL FROM MR. BALWANI TO YOU AND OTHERS

03:01PM 17 WHO WORKED ON DEMOS?

03:01PM 18 A. YES.

03:01PM 19 Q. AND THE DATE OF THIS EMAIL IS JANUARY 7TH, 2014?

03:01PM 20 A. YES.

03:01PM 21 Q. AND IT'S ABOUT A DEMO ON FRIDAY; IS THAT RIGHT?

03:01PM 22 A. YES.

03:01PM 23 MS. WALSH: YOUR HONOR, WE OFFER 20173.

03:01PM 24 MR. BOSTIC: NO OBJECTION.

03:01PM 25 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

03:02PM 1 (DEFENDANT'S EXHIBIT 20173 WAS RECEIVED IN EVIDENCE.)

03:02PM 2 BY MS. WALSH:

03:02PM 3 Q. OKAY. MR. EDLIN, WERE YOU AWARE OF -- READING THIS EMAIL,
03:02PM 4 WERE YOU AWARE OF AN INVESTOR COMING IN IN JANUARY 2014 FOR A
03:02PM 5 DEMO?

03:02PM 6 A. I DON'T REMEMBER WHO THIS WAS ASSOCIATED WITH.

03:02PM 7 Q. OKAY. AND LET'S JUST HIGHLIGHT THE TEXT, THE FIRST
03:02PM 8 PARAGRAPH OF THIS EXHIBIT.

03:02PM 9 MR. BALWANI SAYS, "WE HAVE A VERY IMPORTANT DEMO THIS
03:02PM 10 FRIDAY BETWEEN 9:00 TO 1:00. I WOULD LIKE TO DEMO ENTIRE END
03:02PM 11 TO END PROCESS FROM COLLECTING SAMPLE TO RUNNING IT ON DEVICES
03:02PM 12 AND SHOWING RESULTS ON .ME IPHONE AND ANDROID."

03:02PM 13 DO YOU SEE THAT?

03:02PM 14 A. YES.

03:03PM 15 Q. AND HE WANTS TO HAVE TWO PHONES READY FOR THE DEMO AS
03:03PM 16 WELL; RIGHT?

03:03PM 17 A. YES.

03:03PM 18 Q. AND WHAT IS THE .ME THAT IS BEING REFERRED TO THERE?

03:03PM 19 A. I BELIEVE THAT REFERRED TO THE THERANOS APP FOR AN IPHONE
03:03PM 20 WHERE A PATIENT COULD SEE THE RESULTS.

03:03PM 21 Q. OKAY. AND ANY OTHER INFORMATION THAT COULD BE ACCESSED
03:03PM 22 THROUGH THAT APP?

03:03PM 23 A. I RECALL THERE WAS CERTAIN BACKGROUND INFORMATION FOR EACH
03:03PM 24 TEST AND WHAT THE RESULT MEANT AND THE RESULT ALONG WITH THE
03:03PM 25 REFERENCE RANGE. I BELIEVE YOU COULD FIND A WALGREENS

03:03PM 1 LOCATION, A WELLNESS CENTER LOCATION, AND THAT IS WHAT IS
03:03PM 2 COMING TO MIND RIGHT NOW.

03:03PM 3 Q. OKAY. AND IT WAS MR. BALWANI'S SOFTWARE TEAM WHO
03:03PM 4 DEVELOPED THAT SOFTWARE FOR THOSE APPS; CORRECT?

03:03PM 5 A. CORRECT.

03:03PM 6 Q. OKAY. IF YOU COULD TURN TO 20175 IN YOUR BINDER,
03:04PM 7 MR. EDLIN.

03:04PM 8 A. OKAY.

03:04PM 9 Q. TAKE A LOOK AT THAT EMAIL, AND IT HAS AN ATTACHMENT.
03:04PM 10 DO YOU SEE THAT?

03:04PM 11 A. YES.

03:04PM 12 Q. OKAY. AND IS THIS AN EMAIL CHAIN ABOUT A DEMO REPORT?

03:04PM 13 A. YES.

03:04PM 14 Q. OKAY.

03:04PM 15 WE OFFER 20175, INCLUDING THE ATTACHMENT WHICH SHOULD BE
03:04PM 16 REDACTED FOR THE PERSONAL INFORMATION.

03:04PM 17 MR. BOSTIC: NO OBJECTION.

03:04PM 18 BY MS. WALSH:

03:04PM 19 Q. OKAY. SO LET'S PUBLISH --

03:04PM 20 THE COURT: IT'S ADMITTED, AND IT MAY BE PUBLISHED.
03:05PM 21 (DEFENDANT'S EXHIBIT 20175 WAS RECEIVED IN EVIDENCE.)

03:05PM 22 BY MS. WALSH:

03:05PM 23 Q. LET'S LOOK AT THE EMAIL.

03:05PM 24 OKAY. LET'S LOOK AT THE BOTTOM EMAIL, AND MAX FOSQUE IS
03:05PM 25 SAYING TO YOU AND DR. YOUNG, "DANIEL Y," MEANING DR. YOUNG, "IF

03:05PM 1 YOU WOULDN'T MIND QUICKLY REVIEWING THIS REPORT BEFORE ITS SENT
03:05PM 2 THAT WOULD BE GREAT."

03:05PM 3 DO YOU SEE THAT?

03:05PM 4 A. YES.

03:05PM 5 Q. AND THEN DR. YOUNG EMAILS BACK SAYING, "THE RESULTS LOOK
03:05PM 6 FINE."

03:05PM 7 DO YOU SEE THAT?

03:05PM 8 A. YES.

03:05PM 9 Q. AND THEN YOU ATTACH THE FINAL REPORT; RIGHT?

03:05PM 10 A. YES.

03:05PM 11 Q. OKAY. AND THESE ARE THE RESULTS FROM THE DEMONSTRATION
03:05PM 12 THAT WE JUST SAW THAT YOU WERE SETTING UP FOR ON JANUARY 7TH;
03:05PM 13 RIGHT?

03:05PM 14 A. CORRECT.

03:05PM 15 Q. AND THAT IS EXHIBIT 20173; RIGHT?

03:06PM 16 A. CORRECT.

03:06PM 17 Q. AND THE NAME ON THE ATTACHMENT, THE NAME ON THE REPORT?

03:06PM 18 DO YOU SEE THAT NAME?

03:06PM 19 A. YES.

03:06PM 20 Q. DO YOU RECOGNIZE THAT NAME?

03:06PM 21 A. I DON'T.

03:06PM 22 Q. OKAY. YOU DON'T ASSOCIATE VIVEK KHANNA WITH ANY
03:06PM 23 PARTICULAR GUEST THAT CAME IN?

03:06PM 24 A. NOT AS I SIT HERE TODAY.

03:06PM 25 Q. OKAY. NOW WE'RE GOING TO SWITCH GEARS AND TALK ABOUT

03:06PM 1 THERANOS'S RELATIONSHIP WITH CHIAT/DAY.

03:06PM 2 DO YOU REMEMBER THAT?

03:06PM 3 A. YES.

03:06PM 4 Q. AND YOU TESTIFIED ABOUT THE RELATIONSHIP MOSTLY IN THE

03:06PM 5 PERIOD 2013.

03:06PM 6 DO YOU REMEMBER THAT?

03:06PM 7 A. YOU'RE ASKING IF THE TESTIMONY REFERRED TO INFORMATION IN

03:07PM 8 2013.

03:07PM 9 Q. THAT'S RIGHT.

03:07PM 10 A. YES.

03:07PM 11 Q. AND SO THE GOVERNMENT ASKED YOU QUESTIONS ABOUT THE

03:07PM 12 RELATIONSHIP IN 2013; IS THAT RIGHT?

03:07PM 13 A. YES.

03:07PM 14 Q. OKAY. BUT THE RELATIONSHIP WITH CHIAT/DAY ACTUALLY BEGAN

03:07PM 15 IN 2012.

03:07PM 16 IS THAT YOUR RECOLLECTION?

03:07PM 17 A. I DON'T REMEMBER THE SPECIFIC DATE, BUT THAT SOUNDS

03:07PM 18 REASONABLE. THERE WAS A RELATIONSHIP, YOU KNOW, BEFORE THE

03:07PM 19 WALGREENS LAUNCH.

03:07PM 20 Q. OKAY. SO IF YOU COULD TURN TO 20547.

03:07PM 21 DO YOU SEE THAT?

03:07PM 22 A. YES.

03:07PM 23 Q. AND IS THAT AN EMAIL FROM SOMEONE FROM CHIAT/DAY TO YOU

03:07PM 24 AND MR. BALWANI AND OTHERS AT THERANOS AND CHIAT/DAY?

03:08PM 25 A. YES.

03:08PM 1 Q. OKAY. AND THE DATE OF THAT EMAIL IS NOVEMBER 9TH, 2012.

03:08PM 2 DO YOU SEE THAT?

03:08PM 3 A. YES.

03:08PM 4 Q. OKAY. AND IS THIS RELATED TO THE THERANOS CHIAT/DAY

03:08PM 5 RELATIONSHIP?

03:08PM 6 A. I BELIEVE SO.

03:08PM 7 MS. WALSH: YOUR HONOR, WE OFFER 20547.

03:08PM 8 MR. BOSTIC: NO OBJECTION.

03:08PM 9 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

03:08PM 10 (DEFENDANT'S EXHIBIT 20547 WAS RECEIVED IN EVIDENCE.)

03:08PM 11 BY MS. WALSH:

03:08PM 12 Q. SO LET'S TAKE A LOOK AT THIS EMAIL. THIS IS AN EMAIL FROM

03:08PM 13 SOMEONE NAMED KRISTEN LATTO WHO IS AN ACCOUNT DIRECTOR AT

03:08PM 14 CHIAT/DAY; RIGHT?

03:08PM 15 A. YES.

03:08PM 16 Q. AND THE ATTACHMENTS AND THE EMAIL INDICATES WHAT IS

03:08PM 17 ATTACHED ARE WHITE BOARD NOTES; RIGHT?

03:08PM 18 A. YES. RIGHT.

03:08PM 19 Q. BRAND ARCHETYPES; CORRECT?

03:08PM 20 A. YES.

03:08PM 21 Q. AUDIENCE INSIGHT; RIGHT?

03:09PM 22 A. RIGHT.

03:09PM 23 Q. AND CONSUMER WORLD; RIGHT?

03:09PM 24 A. RIGHT.

03:09PM 25 Q. AND SO THIS IS IN NOVEMBER OF 2012; RIGHT?

03:09PM 1 A. RIGHT.

03:09PM 2 Q. AND WHAT THERANOS WAS DOING BACK IN 2012 WAS STARTING TO

03:09PM 3 DEVELOP ITS MARKETING MATERIALS; RIGHT?

03:09PM 4 A. I BELIEVE SO.

03:09PM 5 Q. AND THIS WAS ALMOST A YEAR BEFORE THE WALGREENS LAUNCH;

03:09PM 6 RIGHT?

03:09PM 7 A. YES.

03:09PM 8 Q. AND IN YOUR INTERACTION WITH CHIAT/DAY, CHIAT/DAY THE

03:09PM 9 MARKETING FIRM, DEVELOPED DIFFERENT SLIDE DECKS FOR DIFFERENT

03:09PM 10 AUDIENCES; IS THAT RIGHT?

03:10PM 11 A. I DON'T RECALL THE SPECIFICS, BUT THAT SOUNDS FAMILIAR.

03:10PM 12 Q. OKAY. LET'S LOOK AT AN EMAIL, AND IT MAY REFRESH YOUR

03:10PM 13 RECOLLECTION.

03:10PM 14 WHY DON'T YOU TURN TO 20548.

03:10PM 15 A. OKAY.

03:10PM 16 Q. IS THIS ANOTHER EMAIL THAT YOU ARE ON WITH MR. BALWANI AND

03:10PM 17 OTHERS AT THERANOS AND CHIAT/DAY?

03:10PM 18 A. YES.

03:10PM 19 Q. AND WHAT IS ATTACHED IS JUST A SCHEDULE OF DELIVERABLES

03:10PM 20 AND DATES OF COMPLETION.

03:10PM 21 DO YOU SEE THAT?

03:10PM 22 A. YES.

03:10PM 23 MS. WALSH: YOUR HONOR, WE OFFER 20548.

03:10PM 24 MR. BOSTIC: NO OBJECTION IF OFFERED AS A BUSINESS

03:10PM 25 RECORD.

03:10PM 1 MS. WALSH: IT IS, YOUR HONOR.

03:10PM 2 THE COURT: IT IS ADMITTED. IT MAY BE PUBLISHED.

03:10PM 3 (DEFENDANT'S EXHIBIT 20548 WAS RECEIVED IN EVIDENCE.)

03:10PM 4 BY MS. WALSH:

03:10PM 5 Q. OKAY. SO LET'S LOOK AT THE BOTTOM EMAIL FROM

03:10PM 6 CHRISTIAN HOLMES.

03:10PM 7 HE SAYS, "STAN,

03:11PM 8 "HOPE YOU'RE DOING WELL. ATTACHED IS A DASHBOARD OF OUR

03:11PM 9 KEY DELIVERABLES AND ASSOCIATED DATES OF COMPLETION."

03:11PM 10 DO YOU SEE THAT?

03:11PM 11 A. YES.

03:11PM 12 Q. AND THEN IF YOU FLIP THE ATTACHMENT, IT GOES THROUGH THE

03:11PM 13 ITEMS AND THE ITEMS CONSIST OF A SERIES OF DIFFERENT SLIDE

03:11PM 14 DECKS; RIGHT?

03:11PM 15 A. YES.

03:11PM 16 Q. AND THERE ARE SLIDE DECKS FOR HOSPITAL EXECUTIVES;

03:11PM 17 CORRECT?

03:11PM 18 A. YES.

03:11PM 19 Q. AND LARGE PROVIDERS; RIGHT?

03:11PM 20 A. YES.

03:11PM 21 Q. PHYSICIANS; RIGHT?

03:11PM 22 A. YES.

03:11PM 23 Q. AND THERE'S ONE RELATED TO THE THERANOS LAUNCH; RIGHT?

03:11PM 24 A. YES.

03:11PM 25 Q. AND LEAVE BEHIND FOR PATIENTS IN THE DOCTOR'S OFFICE;

03:11PM 1

RIGHT?

03:11PM 2

A. YES.

03:11PM 3

Q. BUT AT THE TIME THAT THESE DECKS WERE BEING DEVELOPED,

03:11PM 4

MR. EDLIN, THERANOS DID NOT HAVE RELATIONSHIPS WITH HOSPITAL

03:11PM 5

EXECUTIVES; RIGHT?

03:11PM 6

A. I'M NOT SURE I AGREE WITH THAT.

03:12PM 7

Q. OKAY. THERANOS HAD NOT ENTERED INTO ANY PARTNERSHIP WITH

03:12PM 8

A HOSPITAL TO PUT THE THERANOS DEVICE IN A HOSPITAL TO RUN

03:12PM 9

BLOOD TESTS?

03:12PM 10

A. I'M NOT SURE.

03:12PM 11

Q. OKAY. HOW ABOUT DOCTOR'S OFFICES? THERANOS HAD NOT

03:12PM 12

ENTERED INTO PARTNERSHIPS WITH DOCTORS TO PUT THE THERANOS

03:12PM 13

DEVICE IN DOCTOR'S OFFICES YET, HAD IT?

03:12PM 14

A. I DON'T RECALL THE EXACT DATES. I HAD -- I RECALL THAT

03:13PM 15

THERE WERE RELATIONSHIPS WITH HOSPITAL SYSTEMS AT ONE POINT. I

03:13PM 16

THINK THOSE RELATIONSHIPS TOOK A SIMILAR PHASED APPROACH AS I

03:13PM 17

REFERENCED WITH SOME OF THE MILITARY RELATIONSHIPS WHERE

03:13PM 18

THERE'S AN EVALUATION INITIALLY.

03:13PM 19

BUT I DON'T REMEMBER WHEN THOSE WERE SIGNED AND THE EXTENT

03:13PM 20

OF WHERE AT THIS POINT IN TIME THERANOS WAS IN THOSE

03:13PM 21

RELATIONSHIPS.

03:13PM 22

Q. OKAY. BUT IN MEETING WITH CHIAT/DAY IN 2012, IS IT FAIR

03:13PM 23

TO SAY THAT THE PURPOSE OF THOSE MEETINGS WAS TO DEVELOP

03:13PM 24

MATERIALS ABOUT WHAT THERANOS -- THE GOALS THAT THERANOS WAS

03:13PM 25

TRYING TO ACHIEVE?

03:13PM 1 IS THAT FAIR?

03:13PM 2 A. YES.

03:13PM 3 Q. AND CERTAIN PROGRAMS THAT IT MIGHT ENTER INTO IN THE

03:13PM 4 FUTURE BUT HAD NOT YET NECESSARILY SECURED YET; IS THAT RIGHT?

03:14PM 5 A. YES.

03:14PM 6 Q. IT WAS KIND OF WORKSHOPPING ALL OF THE POSSIBLE IDEAS

03:14PM 7 RELATED TO THERANOS'S MISSION; RIGHT?

03:14PM 8 A. YES.

03:14PM 9 Q. OKAY. AND YOU ALSO TESTIFIED ABOUT SENDING SLIDE DECKS TO

03:14PM 10 INVESTORS AND OTHER OUTSIDE PARTIES; RIGHT?

03:14PM 11 A. RIGHT.

03:14PM 12 Q. AND SOME OF THE SLIDE DECKS WERE TAILORED TO ONE AUDIENCE,

03:14PM 13 ONE KIND OF AUDIENCE; RIGHT?

03:14PM 14 A. RIGHT.

03:14PM 15 Q. OTHERS WERE TAILORED TO OTHERS; RIGHT?

03:14PM 16 A. RIGHT.

03:15PM 17 Q. SOME WERE FOR BUSINESS PARTNERS; CORRECT?

03:15PM 18 A. CORRECT.

03:15PM 19 Q. OTHERS WERE FOR INVESTORS; RIGHT?

03:15PM 20 A. CORRECT.

03:15PM 21 Q. AND MANY, MANY OF THE SLIDES WERE ABOUT THE COMPANY'S

03:15PM 22 INVESTIGATION; IS THAT TRUE?

03:15PM 23 MR. BOSTIC: OBJECTION. VAGUE.

03:15PM 24 THE COURT: DO YOU UNDERSTAND THE QUESTION?

03:15PM 25 THE WITNESS: CAN YOU DEFINE "MANY"?

03:15PM 1 BY MS. WALSH:

03:15PM 2 Q. WELL, LET ME PUT IT THIS WAY, THERE WERE SLIDES IN THOSE

03:15PM 3 SLIDE DECKS --

03:15PM 4 A. RIGHT.

03:15PM 5 Q. -- THAT RELATED TO THE COMPANY'S MISSION; RIGHT?

03:15PM 6 A. YES.

03:15PM 7 Q. AND THE COMPANY'S GOALS TO MAKE HEALTH -- BLOOD TESTING

03:15PM 8 ACCESSIBLE TO EVERYONE; RIGHT?

03:15PM 9 A. RIGHT.

03:15PM 10 Q. GOALS ABOUT PRICING; RIGHT?

03:15PM 11 A. RIGHT.

03:15PM 12 Q. GOALS ABOUT DIFFERENT USE CASES FOR THERANOS TECHNOLOGY;

03:15PM 13 RIGHT?

03:15PM 14 A. YES.

03:15PM 15 Q. OKAY. AND WHEN IT CAME TO -- WE'RE GOING TO GO FORWARD IN

03:16PM 16 TIME TO AUGUST, SEPTEMBER 2013. OKAY?

03:16PM 17 WHEN IT CAME TO DEVELOPING THE CONTENT FOR THE WEBSITE,

03:16PM 18 THESE CHIAT/DAY SLIDES SERVED AS THE BASIS FOR SOME OF THAT

03:16PM 19 CONTENT, DIDN'T IT?

03:16PM 20 A. FOR THE WEBSITE CONTENT?

03:16PM 21 Q. YEAH.

03:16PM 22 A. I DON'T SPECIFICALLY RECALL THAT SEQUENCE, BUT I DO RECALL

03:16PM 23 THERE WAS SIMILAR CONTENT ON THE WEBSITE AND IN THESE OTHER

03:16PM 24 PRESENTATIONS.

03:16PM 25 Q. OKAY. BUT IT'S FAIR TO SAY THAT REVISING THERANOS'S

03:16PM 1 WEBSITE IN THE SUMMER OF 2013 WAS A HUGE PROJECT FOR THE

03:17PM 2 COMPANY?

03:17PM 3 A. YES.

03:17PM 4 Q. IT TOOK A LOT OF WORK; RIGHT?

03:17PM 5 A. YES.

03:17PM 6 Q. AND THERANOS HAD A PRETTY PRIMITIVE WEBSITE BEFORE THAT

03:17PM 7 TIME; RIGHT?

03:17PM 8 A. CORRECT.

03:17PM 9 Q. AND THERE WE ARE SEVERAL PRODUCT MANAGERS LIKE YOU WHO

03:17PM 10 WERE INVOLVED IN THE CREATION AND REVISION OF THAT WEBSITE

03:17PM 11 CONTENT; RIGHT?

03:17PM 12 A. I WOULD SAY THAT THERE WERE PRODUCT MANAGERS WHO WERE --

03:17PM 13 WHO WORKED CLOSELY WITH CHIAT/DAY ON THE REVISION OF THE

03:17PM 14 WEBSITE, BUT IT WAS MOSTLY CHIAT THAT CREATED THE CONTENT AND

03:17PM 15 MATERIALS.

03:17PM 16 Q. OKAY. AND THEN THE PRODUCT MANAGERS WORKED ON REVISING

03:17PM 17 THOSE MATERIALS FOR THE WEBSITE; IS THAT FAIR?

03:17PM 18 A. THE PRODUCT MANAGERS, I MEAN MY ROLE WAS NOT INVOLVED WITH

03:18PM 19 REVISING.

03:18PM 20 THE REVISING WAS DONE MORE BETWEEN CHIAT/DAY AND ELIZABETH

03:18PM 21 OR SUNNY WITH REGARD TO THE WORDING.

03:18PM 22 AND MY ROLE WAS TO FACILITATE THOSE COMMUNICATIONS, MAKE

03:18PM 23 SURE THAT THE PROJECT STAYED ON TASK AND ON TARGET.

03:18PM 24 WHEN IT CAME TO CONTENT GENERATION, I WOULDN'T SAY THAT I

03:18PM 25 WAS INVOLVED WITH THAT.

03:18PM 1 Q. OKAY. LET'S TAKE A LOOK IN YOUR BINDER, IF YOU CAN, AT
03:18PM 2 EXHIBIT 10467.

03:19PM 3 DO YOU SEE THAT?

03:19PM 4 A. YES.

03:19PM 5 Q. OKAY. AND IS THIS AN EMAIL CHAIN BETWEEN YOU, AND
03:19PM 6 JEFF BLICKMAN, AND DANIEL YOUNG ABOUT QUESTIONS REGARDING THE
03:19PM 7 THERANOS WEBSITE?

03:19PM 8 A. YES.

03:19PM 9 Q. AND THE DATE OF THE EMAIL IS SEPTEMBER 22ND, 2013;
03:19PM 10 CORRECT?

03:19PM 11 A. YES.

03:19PM 12 MS. WALSH: YOUR HONOR, WE OFFER EXHIBIT 10467 AS A
03:19PM 13 BUSINESS RECORD.

03:19PM 14 MR. BOSTIC: NO OBJECTION.

03:19PM 15 THE COURT: IT'S ADMITTED, AND IT MAY BE PUBLISHED.

03:19PM 16 (DEFENDANT'S EXHIBIT 10467 WAS RECEIVED IN EVIDENCE.)

03:19PM 17 BY MS. WALSH:

03:19PM 18 Q. OKAY. LET'S TURN TO PAGE 5 OF 6 OF THE EMAIL. AND THAT'S
03:20PM 19 AN EMAIL FROM YOU TO DANIEL YOUNG ON AUGUST 9TH, 2013.

03:20PM 20 DO YOU SEE THAT?

03:20PM 21 A. YES.

03:20PM 22 Q. AND YOU SAY, "HI DANIEL,

03:20PM 23 "WE HAVE A FEW QUESTIONS RELATED TO INFO-GRAPHICS THAT
03:20PM 24 WE'RE PLANNING TO INCLUDE ON THE WEBSITE, AND WE WERE HOPING
03:20PM 25 THAT YOU COULD LEND YOUR EXPERTISE."

03:20PM 1 DO YOU SEE THAT?

03:20PM 2 A. YES.

03:20PM 3 Q. AND GOING DOWN ON THAT SAME EMAIL, YOU'RE POINTING OUT
03:20PM 4 "FAST AND MEANINGFUL TURN-AROUND TIMES"; RIGHT?

03:20PM 5 DO YOU SEE THAT? ITEM 1?

03:20PM 6 A. YES.

03:20PM 7 Q. OKAY. AND WHAT YOU SAY IS, "FOR THIS GRAPHIC," AND THE
03:20PM 8 GRAPHIC IS BELOW THE TEXT, "WE WANT TO INCLUDE AN ASSAY THAT
03:20PM 9 TYPICALLY TAKES A LONG TIME TO TEST BUT THAT WE HAVE THE
03:20PM 10 ABILITY TO PROCESS QUICKLY, AND BY PROVIDING ANSWERS FASTER IT
03:20PM 11 WOULD MAKE A MEANINGFUL IMPACT ON THE DIAGNOSIS. CAN YOU THINK
03:20PM 12 OF A SPECIFIC ASSAY THAT MEETS THIS CRITERIA? VITAMIN D
03:21PM 13 DOESN'T QUITE WORK BECAUSE IT'S NOT CRITICAL TO HAVE THESE
03:21PM 14 RESULTS FAST. ELIZABETH SUGGESTED USING A BACTERIA ASSAY."

03:21PM 15 DO YOU SEE THAT?

03:21PM 16 A. YES.

03:21PM 17 Q. AND THEN DR. YOUNG RESPONDS TO YOUR QUESTION AND HE SAYS,
03:21PM 18 "FAST TURN-AROUND TIME," AND HE GIVES SOME EXAMPLES,
03:21PM 19 "STREPTOCOCCUS PNEUMONIAE IS ONE OF THE MOST COMMON CAUSES OF
03:21PM 20 COMMUNITY-ACQUIRED PNEUMONIA. CURRENT CRITERIA OF DIAGNOSIS
03:21PM 21 ARE BASED ON SPUTUM CULTURES. MANY PATIENTS OFTEN RECEIVE,"
03:21PM 22 AND HE GOES ON ABOUT THE TECHNICAL ASPECTS OF WHAT YOU ASKED
03:21PM 23 HIM.

03:21PM 24 DO YOU SEE THAT?

03:21PM 25 A. YES.

03:21PM 1 Q. AND SO IN WORKING ON THE WEBSITE, YOU CONSULTED WITH THE
03:21PM 2 SCIENTIST, TOO, RIGHT?
03:21PM 3 A. YES.
03:21PM 4 Q. AND YOU WERE ASKING QUESTIONS ABOUT CONTENT; RIGHT?
03:21PM 5 A. YES.
03:21PM 6 Q. AND YOU WERE DOING THAT TO TRY TO MAKE THE WEBSITE
03:21PM 7 ACCURATE; RIGHT?
03:21PM 8 A. YES.
03:21PM 9 Q. YOU WANTED IT TO BE -- NOT HAVE ANY ERRORS; RIGHT?
03:22PM 10 A. RIGHT.
03:22PM 11 Q. AND TO BE PRECISE AND ACCURATE; RIGHT?
03:22PM 12 A. CORRECT.
03:22PM 13 Q. OKAY. LET'S TURN NOW TO 10469 IN YOUR BINDER.
03:22PM 14 A. OKAY.
03:22PM 15 Q. OKAY. IS THIS AN EMAIL FROM YOU TO MS. HOLMES COPYING
03:22PM 16 CHRISTIAN HOLMES AND JEFF BLICKMAN ABOUT THE DOT COM.
03:22PM 17 DO YOU SEE THAT?
03:22PM 18 A. YES.
03:22PM 19 Q. AND THE DATE IS AUGUST 30TH, 2013; RIGHT?
03:22PM 20 A. YES.
03:22PM 21 Q. AND THE DOT COM, I TAKE IT, WAS THE THERANOS WEBSITE?
03:23PM 22 A. AUGUST 30TH, 2013.
03:23PM 23 THE COURT: WE DIDN'T GET AN ANSWER.
03:23PM 24 MS. WALSH: SORRY.
03:23PM 25 Q. WAS THE DOT COM REFERRING TO THE THERANOS WEBSITE?

03:23PM 1 A. YES.

03:23PM 2 Q. AND IS THE DATE OF THE EMAIL AUGUST 30TH, 2013?

03:23PM 3 A. YES.

03:23PM 4 Q. OKAY.

03:23PM 5 YOUR HONOR, WE OFFER 10467 -- 10469.

03:23PM 6 MR. BOSTIC: NO OBJECTION.

03:23PM 7 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

03:23PM 8 (DEFENDANT'S EXHIBIT 10469 WAS RECEIVED IN EVIDENCE.)

03:23PM 9 BY MS. WALSH:

03:23PM 10 Q. OKAY. SO IN THIS EMAIL YOU'RE REACHING OUT TO MS. HOLMES

03:23PM 11 ABOUT THE WEBSITE AND YOU SAY, "I'VE ATTACHED SOME OPTIONS FOR

03:23PM 12 A GRAPH TO ILLUSTRATE THE BETTER DATA FROM FRESHER SAMPLES

03:23PM 13 PIECE OF .COM."

03:23PM 14 DO YOU SEE THAT?

03:23PM 15 A. YES.

03:23PM 16 Q. AND THEN THE SECOND PARAGRAPH SAYS, "PLEASE LET US KNOW IF

03:23PM 17 YOU HAVE ANY COMMENTS ON THIS. WE'LL NEED TO SEND FEEDBACK ON

03:23PM 18 THIS TO CHIAT TONIGHT."

03:24PM 19 DO YOU SEE THAT?

03:24PM 20 A. YES.

03:24PM 21 Q. AND IF WE COULD JUST TURN TO THE FIRST GRAPHIC.

03:24PM 22 AND THIS -- WHAT YOU'RE ASKING ABOUT IS THE DECAY OF

03:24PM 23 ANALYTES IN BLOOD AND SERUM.

03:24PM 24 DO YOU SEE THAT?

03:24PM 25 A. YES.

03:24PM 1 Q. AND THAT WAS A FAIRLY TECHNICAL TOPIC; CORRECT?

03:24PM 2 A. CORRECT.

03:24PM 3 Q. AND SO YOU'RE REACHING OUT TO ELIZABETH TO GET SOME

03:24PM 4 FEEDBACK FROM HER; RIGHT?

03:24PM 5 A. CORRECT.

03:24PM 6 Q. OKAY. SO LET'S, IF YOU CAN, MR. EDLIN, TURN TO 10468.

03:24PM 7 A. OKAY.

03:24PM 8 Q. AND IF YOU LOOK AT THE BOTTOM EMAIL THAT IS DATED

03:24PM 9 AUGUST 29TH, 2013; RIGHT?

03:24PM 10 A. RIGHT.

03:24PM 11 Q. AND THAT'S THE SAME EMAIL THAT YOU SENT TO MS. HOLMES IN

03:24PM 12 THE LAST EXHIBIT THAT WE LOOKED AT; IS THAT RIGHT?

03:24PM 13 A. YES.

03:25PM 14 Q. OKAY. AND SO IT'S PICKING UP ON THE CHAIN; RIGHT?

03:25PM 15 A. RIGHT.

03:25PM 16 Q. AND THEN IT CONTINUES ON IN THE CHAIN BETWEEN MS. HOLMES

03:25PM 17 AND DR. YOUNG AND OTHERS AT THERANOS.

03:25PM 18 DO YOU SEE THAT?

03:25PM 19 A. YES.

03:25PM 20 MS. WALSH: YOUR HONOR, WE OFFER 10468.

03:25PM 21 MR. BOSTIC: NO OBJECTION.

03:25PM 22 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

03:25PM 23 (DEFENDANT'S EXHIBIT 10468 WAS RECEIVED IN EVIDENCE.)

03:25PM 24 BY MS. WALSH:

03:25PM 25 Q. OKAY. SO GOING TO WHERE WE PICK UP ON THE CHAIN IS WHERE

03:25PM 1 MS. HOLMES GETS YOUR EMAIL AND THEN SHE FORWARDS IT OR SHE
03:25PM 2 LOOPS IN DANIEL YOUNG.
03:25PM 3 DO YOU SEE THAT?
03:25PM 4 A. YES.
03:25PM 5 Q. AND SHE SAYS, "DANIEL: ARE YOU SAYING 2 HOURS FROM THE
03:25PM 6 TIME IT BECOMES SERUM IN THE BELOW GRAPH"; RIGHT?
03:25PM 7 A. RIGHT.
03:25PM 8 Q. AND SHE'S ASKING ABOUT THE RATE OF DECAY; RIGHT?
03:25PM 9 A. RIGHT.
03:25PM 10 Q. AND SO THE FIRST THING MS. HOLMES DOES IS TO LOOP IN
03:25PM 11 DANIEL YOUNG TO ANSWER THAT QUESTION; CORRECT?
03:25PM 12 A. CORRECT.
03:25PM 13 Q. AND THEN THERE IS SOME BACK AND FORTH BETWEEN MS. HOLMES
03:25PM 14 AND DR. YOUNG THAT IS A LITTLE BIT TECHNICAL.
03:26PM 15 BUT LET'S GO TO THE TOP EMAIL. AND THIS IS FROM
03:26PM 16 MS. HOLMES, AND SHE SAYS, "IF THEY CURRENTLY DO REFRIGERATE
03:26PM 17 THEN WE SHOULD REFLECT THAT SO WE ARE MAKING AN ACCURATE
03:26PM 18 CLAIM."
03:26PM 19 DO YOU SEE THAT?
03:26PM 20 A. YES.
03:26PM 21 Q. AND SO THERE'S AN EXAMPLE OF MS. HOLMES TRYING TO MAKE THE
03:26PM 22 WEBSITE AS ACCURATE AS POSSIBLE; CORRECT?
03:26PM 23 A. CORRECT.
03:26PM 24 Q. OKAY. OKAY. SO YOU ALSO TESTIFIED IN CONNECTION WITH THE
03:26PM 25 WEBSITE THAT THERANOS GOT SOME FEEDBACK FROM ITS ATTORNEYS ON

03:26PM 1 THE CONTENT OF THE WEBSITE.

03:27PM 2 DO YOU REMEMBER THAT?

03:27PM 3 A. YES.

03:27PM 4 Q. AND ONE OF THEM WAS AN IN-HOUSE ATTORNEY, THAT WAS

03:27PM 5 JIM FOX, REMEMBER?

03:27PM 6 A. YES.

03:27PM 7 Q. AND THE OTHER ONE WAS AN OUTSIDE ATTORNEY, THAT WAS

03:27PM 8 KATE BEARDSLEY; CORRECT?

03:27PM 9 A. CORRECT.

03:27PM 10 Q. AND THEY PROPOSED CERTAIN CHANGES TO THE WEBSITE; RIGHT?

03:27PM 11 A. YES.

03:27PM 12 Q. AND TO TRY TO CORRECT ANY INCONSISTENCIES?

03:27PM 13 DO YOU REMEMBER?

03:27PM 14 A. YES.

03:27PM 15 Q. SO TURN TO 20166.

03:27PM 16 A. OKAY.

03:27PM 17 Q. AND JUST LOOK THROUGH THAT CHAIN.

03:28PM 18 IS THAT AN EMAIL CHAIN ON SEPTEMBER 6TH THROUGH

03:28PM 19 SEPTEMBER 11TH, 2013?

03:28PM 20 A. YES.

03:28PM 21 Q. AND THIS IS AN EMAIL CHAIN REGARDING UPDATES OR WORKING ON

03:28PM 22 THE WEBSITE; IS THAT RIGHT?

03:28PM 23 A. JUST ONE MOMENT, PLEASE.

03:28PM 24 (PAUSE IN PROCEEDINGS.)

03:28PM 25 THE WITNESS: YES.

03:29PM 1 MS. WALSH: OKAY. WE OFFER 20166.

03:29PM 2 MR. BOSTIC: FOUNDATION AND AUTHENTICATION. I DON'T
03:29PM 3 SEE THE WITNESS ON THIS EMAIL, AND IT LACKS A BATES NUMBER.

03:29PM 4 MS. WALSH: OKAY, YOUR HONOR. WE CAN PUT THIS
03:29PM 5 ASIDE, AND I CAN COME BACK TO IT, IF NECESSARY.

03:29PM 6 Q. OKAY. SO YOU TESTIFIED THIS MORNING ABOUT THE FEEDBACK
03:29PM 7 THERANOS GOT FROM ITS ATTORNEYS AND THE WHY WEBSITE PAGES IN
03:29PM 8 FEBRUARY OF 2014.

03:29PM 9 DO YOU REMEMBER THAT?

03:29PM 10 A. YES.

03:29PM 11 Q. AND THAT EXHIBIT WITH THE WEBSITE PAGES WAS 5805, AND WE
03:29PM 12 CAN SHOW IT TO YOU AGAIN.

03:29PM 13 A. IF YOU DON'T MIND.

03:30PM 14 Q. LET'S PULL UP 5805.

03:30PM 15 ARE THESE THE WEBSITE PAGES THAT WERE LIVE IN FEBRUARY OF
03:30PM 16 2014?

03:30PM 17 A. YES, TO THE BEST OF MY RECOLLECTION.

03:30PM 18 Q. OKAY.

03:30PM 19 YOUR HONOR, I HAVE A DEMONSTRATIVE THAT I WOULD LIKE TO
03:30PM 20 USE, AND I CAN HAND IT UP TO THE COURT, AND THE WITNESS, AND
03:30PM 21 COUNSEL.

03:30PM 22 THE COURT: OKAY. SURE.

03:30PM 23 MS. WALSH: (HANDING.)

03:31PM 24 Q. OKAY. MR. EDLIN, YOU WERE SHOWN EXHIBIT 3965, WHICH IS IN
03:31PM 25 EVIDENCE.

03:31PM 1 AND WHAT I'D LIKE TO REQUEST, IS THAT WE PUBLISH PAGE 4 OF
03:31PM 2 THAT EXHIBIT.

03:31PM 3 THE COURT: YES.

03:31PM 4 BY MS. WALSH:

03:31PM 5 Q. AND THE GOVERNMENT SHOWED YOU ONE OF THESE PAGES. THIS IS
03:31PM 6 ONE OF THE DRAFT PAGES OF THE WEBSITE; RIGHT?

03:31PM 7 A. YES.

03:31PM 8 Q. OKAY. AND IF YOU WANT TO GET EXHIBIT 3965 IN FRONT OF
03:31PM 9 YOU, THAT MIGHT HELP.

03:31PM 10 A. OKAY. JUST ONE SECOND.

03:32PM 11 OKAY.

03:32PM 12 Q. AND YOU SEE THE FIRST -- THESE ARE THE DRAFT PAGES; RIGHT?

03:32PM 13 A. YES.

03:32PM 14 Q. OKAY. AND YOU SEE THE FIRST ENTRY, "A TINY DROP IS ALL IT
03:32PM 15 TAKES."

03:32PM 16 DO YOU SEE THAT?

03:32PM 17 YOU CAN LOOK ON THE SCREEN FOR THAT.

03:32PM 18 A. YES.

03:32PM 19 Q. OKAY. AND IF YOU COULD JUST TURN IN YOUR EXHIBIT TO 3965
03:32PM 20 JUST ON YOUR OWN.

03:32PM 21 A. UH-HUH.

03:32PM 22 Q. TO THE FIRST PAGE, WHICH IS THE EMAIL FROM THE ATTORNEY,
03:32PM 23 JIM FOX.

03:32PM 24 DO YOU HAVE THAT IN FRONT OF YOU?

03:32PM 25 A. YES.

03:32PM 1 Q. AND YOU SEE HOW HE SAYS IN HIS ADVICE --

03:32PM 2 A. RIGHT.

03:32PM 3 Q. -- "A TINY DROP IS ALL IT TAKES. WE OFTEN USE MORE THAN
03:33PM 4 ONE DROP. WE SHOULD SAY A FEW DROPS IS ALL IT TAKES"?

03:33PM 5 DO YOU SEE THAT?

03:33PM 6 A. YES.

03:33PM 7 Q. OKAY. NOW, LET'S TURN TO 5805 TO THAT SAME PAGE, WHICH IS
03:33PM 8 PAGE 3.

03:33PM 9 DO YOU SEE THAT ON THE SCREEN?

03:33PM 10 A. I DO.

03:33PM 11 Q. AND DO YOU SEE THAT "A TINY DROP" HAS BEEN CHANGED TO "A
03:33PM 12 FEW DROPS IS ALL IT TAKES."

03:33PM 13 DO YOU SEE THAT?

03:33PM 14 A. YES.

03:33PM 15 Q. OKAY. SO LET'S TAKE THOSE DOWN AND PUT UP OUR
03:33PM 16 DEMONSTRATIVE.

03:33PM 17 MR. BOSTIC: YOUR HONOR, APOLOGIES. I DO HAVE
03:33PM 18 OBJECTIONS TO AT LEAST PORTIONS OF THE DEMONSTRATIVE. IF IT'S
03:33PM 19 POSSIBLE TO DISPLAY ONLY THE FIRST ROW FOR NOW, I WOULDN'T HAVE
03:33PM 20 AN OBJECTION TO THAT.

03:33PM 21 MS. WALSH: SURE, YOUR HONOR.

03:33PM 22 THE COURT: ALL RIGHT.

03:33PM 23 MS. WALSH: WE'LL DO THE FIRST ROW.

03:33PM 24 THE COURT: AND, LADIES AND GENTLEMEN, EXCUSE ME.

03:34PM 25 THIS IS A, THIS IS A DEMONSTRATIVE. IT IS NOT BEING INTRODUCED

03:34PM 1 INTO EVIDENCE AT THIS POINT, SO YOU WILL NOT HAVE THIS AS PART
03:34PM 2 OF YOUR EVIDENCE.

03:34PM 3 IT'S MERELY A TOOL USED TO DESCRIBE OTHER EVIDENCE THAT
03:34PM 4 MAY HAVE ALREADY BEEN ADMITTED.

03:34PM 5 SO IT'S BEING SHOWN TO YOU SOLELY FOR THAT PURPOSE.
03:34PM 6 COUNSEL.

03:34PM 7 MS. WALSH: THANK YOU.

03:34PM 8 Q. OKAY. SO WE SEE ON THE LEFT COLUMN THE DRAFT WEBSITE
03:34PM 9 LANGUAGE THAT WAS IN 3965, "A TINY DROP IS ALL IT TAKES";
03:34PM 10 RIGHT?

03:34PM 11 A. YES.

03:34PM 12 Q. AND THEN THE DRAFT FROM THE ATTORNEYS IS "A FEW DROPS IS
03:34PM 13 ALL IT TAKES OR AS LITTLE AS ONE DROP IS ALL IT TAKES, OR SOME
03:34PM 14 PHRASE"; RIGHT?

03:34PM 15 A. YES.

03:34PM 16 Q. AND THEN SOME FINAL LANGUAGE THAT WENT LIVE IS CHANGED TO
03:34PM 17 "A FEW DROPS IS ALL IT TAKES"; RIGHT?

03:35PM 18 A. CORRECT.

03:35PM 19 Q. OKAY. SO WE CAN TAKE THAT DOWN.

03:35PM 20 NOW LET'S GO BACK TO 3965, WHICH ARE THE DRAFT WEBSITE
03:35PM 21 PAGES. ON PAGE 4 THE SECOND ENTRY IS, "FASTER RESULTS. FASTER
03:35PM 22 ANSWERS."

03:35PM 23 DO YOU SEE THAT?

03:35PM 24 A. YES.

03:35PM 25 Q. AND THEN IF YOU TURN TO EXHIBIT 3981 IN YOUR BINDER.

03:35PM 1 A. OKAY.

03:35PM 2 Q. AND YOU SEE THIS IS THE ADVICE FROM THE OTHER LAWYER,

03:36PM 3 KATE BEARDSLEY?

03:36PM 4 A. YES.

03:36PM 5 Q. DO YOU REMEMBER THAT?

03:36PM 6 A. YES.

03:36PM 7 Q. AND ON PAGE 2 OF THE EXHIBIT SHE SAYS IN ONE OF THE MIDDLE

03:36PM 8 BULLETS, "REPLACE 'FASTER AND EASIER' WITH 'FAST AND EASY.'"

03:36PM 9 DO YOU SEE THAT?

03:36PM 10 A. YES.

03:36PM 11 Q. AND THEN IF WE CAN PUT UP THE FINAL WEB PAGES, WHICH IS

03:36PM 12 5805 ON PAGE 3, YOU SEE THAT THE CHANGE WAS MADE, "FAST

03:36PM 13 RESULTS. FAST ANSWERS."

03:36PM 14 DO YOU SEE THAT?

03:36PM 15 A. YES.

03:36PM 16 Q. OKAY. LET'S NEXT GO TO --

03:36PM 17 A. ACTUALLY, I SEE ON THE BEARDSLEY GUIDANCE IT SAYS,

03:36PM 18 "REPLACE 'FASTER AND EASIER' WITH 'FAST AND EASY.'"

03:36PM 19 Q. RIGHT?

03:36PM 20 A. AND THIS HAS -- THIS IS WORDED JUST SLIGHTLY DIFFERENTLY,

03:36PM 21 BUT, YES, "FASTER" WAS CHANGED TO "FAST."

03:37PM 22 Q. EXACTLY.

03:37PM 23 SO IT'S SLIGHTLY DIFFERENT BUT "FASTER" WAS CHANGED TO

03:37PM 24 "FAST"; CORRECT?

03:37PM 25 A. CORRECT.

03:37PM 1 Q. OKAY. SO LET'S GO TO THE THIRD ONE ON THAT PAGE -- I'M
03:37PM 2 SORRY, THIRD ONE ON THE DRAFT PAGES IN 3965, "HIGHEST LEVELS OF
03:37PM 3 ACCURACY."
03:37PM 4 DO YOU SEE THAT?
03:37PM 5 A. YES.
03:37PM 6 Q. OKAY. AND THEN IF YOU TURN TO MS. BEARDSLEY'S ADVICE ON
03:37PM 7 3981 IN YOUR BINDER --
03:37PM 8 A. UH-HUH.
03:37PM 9 Q. -- THIRD BULLET FROM THE BOTTOM --
03:37PM 10 A. RIGHT.
03:37PM 11 Q. -- "REPLACE 'HIGHEST LEVELS OF ACCURACY' WITH 'HIGHEST
03:37PM 12 LEVELS OF ACCURACY.'"
03:37PM 13 DO YOU SEE THAT?
03:37PM 14 A. YES.
03:37PM 15 Q. AND WHAT ENDS UP ON THE LIVE WEBSITE ON EXHIBIT 5805 IS
03:37PM 16 "HIGH LEVELS OF PRECISION."
03:37PM 17 DO YOU SEE THAT?
03:37PM 18 A. I DO.
03:37PM 19 Q. AND AGAIN, THIS IS AN EXAMPLE OF THE EXACT CHANGE WASN'T
03:38PM 20 MADE, BUT A CHANGE WAS MADE FROM "HIGHEST LEVELS OF ACCURACY,"
03:38PM 21 TO "HIGH LEVELS OF PRECISION"; CORRECT?
03:38PM 22 A. CORRECT.
03:38PM 23 Q. AND LET'S GO TO THE NEXT ONE ON 3965. THE FOURTH ONE DOWN
03:38PM 24 IS "MORE PRECISE TRENDING."
03:38PM 25 THIS IS ON THE DRAFT WEB PAGES; RIGHT?

03:38PM 1 A. YES.

03:38PM 2 Q. AND THEN IF YOU GO TO MS. BEARDSLEY, HER ADVICE IN 3981 ON

03:38PM 3 PAGE 3 --

03:38PM 4 A. YES.

03:38PM 5 Q. -- THE THIRD BULLET DOWN.

03:38PM 6 A. I SEE.

03:38PM 7 Q. SHE SAYS, "CHANGE 'MORE PRECISE' TO 'PRECISE'"; RIGHT?

03:38PM 8 A. YES.

03:38PM 9 Q. AND WHAT ENDS UP BEING THE LIVE PAGES ON EXHIBIT 5805, THE

03:39PM 10 WORD IS CHANGED TO "PRECISE"; RIGHT?

03:39PM 11 A. RIGHT.

03:39PM 12 Q. "PRECISE TRENDING"; CORRECT?

03:39PM 13 A. CORRECT.

03:39PM 14 Q. AND THEN LET'S LOOK ON THE SAME PAGES OF THE DRAFT ON PAGE

03:39PM 15 3965 ABOVE, "A TINY DROP IS ALL IT TAKES."

03:39PM 16 IT'S A LITTLE HARD TO SEE?

03:39PM 17 A. UH-HUH.

03:39PM 18 Q. BUT THE TEXT, IT SAYS, "AT THERANOS, WE CAN PERFORM ALL

03:39PM 19 LAB TESTS ON A SAMPLE 1/1,000 THE SIZE OF A TYPICAL BLOOD

03:39PM 20 DRAW."

03:39PM 21 DO YOU SEE THAT?

03:39PM 22 A. I DO.

03:39PM 23 Q. OKAY. AND THEN IF YOU GO TO MS. BEARDSLEY'S ADVICE,

03:39PM 24 EXHIBIT 3981 AT PAGE 2, SHE SAYS, "ENSURE SUBSTANTIATION FOR A

03:40PM 25 CLAIM 1/1,000 THE SIZE OF TYPICAL BLOOD DRAW."

03:40PM 1 DO YOU SEE THAT?

03:40PM 2 A. YES.

03:40PM 3 Q. AND THEN IF WE GO TO THE LIVE PAGES, A CHANGE IS MADE AND
03:40PM 4 WHAT THE CHANGE IS, "AT THERANOS, WE CAN PERFORM OUR LAB TESTS
03:40PM 5 ON SAMPLES AS SMALL AS 1/1,000 THE SIZE OF A TYPICAL BLOOD
03:40PM 6 DRAW."

03:40PM 7 DO YOU SEE THAT?

03:40PM 8 A. YES.

03:40PM 9 Q. SO "ALL" WAS CHANGED TO "OUR" AND TEXT WAS ADDED "AS SMALL
03:40PM 10 AS."

03:40PM 11 DO YOU SEE THAT?

03:40PM 12 A. I DO.

03:41PM 13 Q. OKAY. LET'S GO TO PAGE 7 OF EXHIBIT 3965.

03:41PM 14 IN THE MIDDLE OF THE PAGE, THE DRAFT WEB PAGE IS "A
03:41PM 15 COMPLETE TEST MENU."

03:41PM 16 DO YOU SEE THAT?

03:41PM 17 A. "A COMPLETE TEST MENU," YES.

03:41PM 18 Q. "A COMPLETE TEST MENU," YES.

03:41PM 19 AND IF YOU GO TO MS. BEARDSLEY'S ADVICE ON PAGE 3, ONE,
03:41PM 20 TWO, THREE, FOUR, FIVE -- SIX BULLETS UP FROM THE TOP SHE SAYS,
03:41PM 21 "CHANGE 'COMPLETE' TO 'COMPREHENSIVE.'"

03:41PM 22 DO YOU SEE THAT?

03:41PM 23 A. YES.

03:41PM 24 Q. AND IF WE GO TO THE ACTUAL WEBSITE CAPTURES, ON PAGE 6, IT
03:42PM 25 SAYS, "A COMPREHENSIVE TEST MENU."

03:42PM 1 DO YOU SEE THAT?

03:42PM 2 A. I DO.

03:42PM 3 Q. SO "COMPLETE" WAS CHANGED TO "COMPREHENSIVE"; RIGHT?

03:42PM 4 A. YES.

03:42PM 5 Q. OKAY. LET'S SET ALL OF THOSE ASIDE.

03:42PM 6 AND SO JUST TO ASK ONE MORE QUESTION ABOUT THE WEBSITE,

03:42PM 7 BASED ON WHAT YOU'VE SEEN AND THE EMAILS THAT YOU'VE SEEN

03:42PM 8 RELATED TO THIS, IN YOUR OWN EXPERIENCE, YOU AND YOUR

03:43PM 9 COLLEAGUES WERE DOING THE BEST YOU COULD TO TRY TO MAKE THAT

03:43PM 10 WEBSITE ACCURATE, WEREN'T YOU?

03:43PM 11 MR. BOSTIC: OBJECTION. FOUNDATION. CALLS FOR

03:43PM 12 SPECULATION.

03:43PM 13 THE COURT: COULD YOU LAY A FOUNDATION.

03:43PM 14 MS. WALSH: SURE.

03:43PM 15 Q. SO YOU WORKED ON PARTS OF THE WEBSITE; CORRECT? WE SAW

03:43PM 16 THAT IN THE EMAILS; RIGHT?

03:43PM 17 A. CORRECT.

03:43PM 18 Q. AND CHRISTIAN HOLMES WORKED ON THE WEBSITE; CORRECT?

03:43PM 19 A. YES.

03:43PM 20 Q. AND YOU POSED QUESTIONS TO MS. HOLMES; RIGHT?

03:43PM 21 A. YES.

03:43PM 22 Q. AND LAWYERS WERE GIVING YOU FEEDBACK; CORRECT?

03:43PM 23 A. CORRECT.

03:43PM 24 Q. AND WE SAW SOME OF THAT FEEDBACK WAS IMPLEMENTED; RIGHT?

03:43PM 25 A. RIGHT.

03:43PM 1 Q. SO IS IT FAIR TO SAY THAT YOU WERE MAKING GREAT EFFORT TO
03:43PM 2 TRY TO MAKE THE WEBSITE ACCURATE?

03:43PM 3 MR. BOSTIC: ARE WE ASKING ABOUT THIS WITNESS
03:43PM 4 INDIVIDUALLY?

03:43PM 5 MS. WALSH: YES, YOUR HONOR, YES.

03:43PM 6 THE COURT: IT'S ABOUT HIS EFFORTS.

03:43PM 7 MS. WALSH: YES.

03:43PM 8 THE COURT: DO YOU UNDERSTAND THAT, SIR?

03:43PM 9 THE WITNESS: I DO.

03:43PM 10 THE COURT: OKAY. YOU CAN ANSWER THE QUESTION.

03:43PM 11 THE WITNESS: THE ANSWER IS YES.

03:43PM 12 THE COURT: OKAY.

03:43PM 13 MS. WALSH: THANK YOU.

03:43PM 14 Q. AND YOU DIDN'T HAVE REASON TO BELIEVE THAT ANYONE ELSE WHO
03:44PM 15 WAS WORKING ON THE WEBSITE WITH YOU WAS NOT TRYING TO MAKE IT
03:44PM 16 ACCURATE?

03:44PM 17 MR. BOSTIC: SAME OBJECTIONS. CALLS FOR
03:44PM 18 SPECULATION.

03:44PM 19 MS. WALSH: JUST WHAT HE OBSERVED.

03:44PM 20 THE COURT: I THINK YOU'LL NEED TO LAY A BETTER
03:44PM 21 FOUNDATION FOR THAT.

03:44PM 22 MS. WALSH: OKAY.

03:44PM 23 Q. SO WHAT WE'VE SEEN IN THE EMAILS IS LAWYERS GIVING
03:44PM 24 FEEDBACK; RIGHT?

03:44PM 25 A. RIGHT.

03:44PM 1 Q. AND THERANOS PERSONNEL IMPLEMENTING THE FEEDBACK; RIGHT?

03:44PM 2 A. RIGHT.

03:44PM 3 Q. AND PEOPLE CONSULTING WITH EACH OTHER ABOUT MAKING THE
03:44PM 4 WEBSITE ACCURATE; RIGHT?

03:44PM 5 A. RIGHT.

03:44PM 6 Q. AND I TAKE IT YOU DID NOT OBSERVE ANYTHING IN YOUR WORK AT
03:44PM 7 THERANOS, WORKING ON THIS WEBSITE, THAT MADE YOU CONCLUDE THAT
03:44PM 8 THE PEOPLE YOU WERE WORKING WITH WERE TRYING TO NOT MAKE THE
03:45PM 9 WEBSITE ACCURATE?

03:45PM 10 MR. BOSTIC: SAME OBJECTIONS. SAME QUESTION.

03:45PM 11 THE COURT: SUSTAINED.

03:45PM 12 BY MS. WALSH:

03:45PM 13 Q. ALL RIGHT. LET'S MOVE ON TO THE WALGREENS BROCHURE.

03:45PM 14 MAY I JUST CHECK SOMETHING, YOUR HONOR?

03:45PM 15 THE COURT: YES, OF COURSE.

03:45PM 16 (DISCUSSION AMONGST DEFENSE COUNSEL OFF THE RECORD.)

03:46PM 17 BY MS. WALSH:

03:46PM 18 Q. ALL RIGHT. MR. EDLIN, PLEASE TURN IN YOUR BINDER TO
03:46PM 19 EXHIBIT 10558.

03:46PM 20 A. OKAY.

03:46PM 21 Q. SO THIS IS AN EMAIL THAT YOU'RE ON; RIGHT?

03:46PM 22 A. YES.

03:46PM 23 Q. AND MR. CHRISTIAN HOLMES IS ON THIS EMAIL; CORRECT?

03:46PM 24 A. YES.

03:46PM 25 Q. AND THE EMAIL IS WITH A PERSON NAMED MIKE YAGI; CORRECT?

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03:46PM 3
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03:46PM 5
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03:46PM 7
03:46PM 8
03:46PM 9
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03:47PM 18
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03:47PM 20
03:47PM 21
03:47PM 22
03:47PM 23
03:47PM 24
03:47PM 25

A. YES.

Q. AND MR. YAGI IS WITH CHIAT/DAY; RIGHT?

A. YES.

Q. AND THE DATE OF THE EMAIL IS SEPTEMBER 5TH, 2013; RIGHT?

A. RIGHT.

Q. AND THE SUBJECT IS BROCHURE FEEDBACK; RIGHT?

A. RIGHT.

MS. WALSH: YOUR HONOR, WE OFFER 10558.

MR. BOSTIC: NO OBJECTION.

THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

(DEFENDANT'S EXHIBIT 10558 WAS RECEIVED IN EVIDENCE.)

BY MS. WALSH:

Q. SO LET'S LOOK AT WHAT MR. HOLMES SAYS TO MIKE.

"MIKE,

"I HOPE YOU'RE DOING WELL. I JUST CAUGHT UP WITH

ELIZABETH -- SHE HAD A CONVERSATION WITH OUR REGULATORY FOLKS

AND THEY WANT TO MAKE A FEW CHANGES ON THE BROCHURE FOR

WALGREENS. THESE ARE RELATIVELY MINOR BUT WILL NEED TO

IMPLEMENT THEM AS SOON AS WE CAN FOR ADDITIONAL PRINTING OF THE

BROCHURE. HERE IS THE FEEDBACK AND WE CAN DISCUSS -- I BELIEVE

ELIZABETH IS GOING TO JOIN ALL OF THE MEETINGS ON

FEEDBACK/CHANGES PER THIS NOTE."

AND THEN MR. HOLMES LISTS THE FEEDBACK; RIGHT?

A. RIGHT.

Q. AND ONE OF THEM "ON THE ONE 'TINY DROP CHANGES EVERYTHING'

03:47PM 1 PANEL I WOULD SAY 'TINY' RATHER THAN THE 'TINIEST'; RIGHT?

03:47PM 2 A. RIGHT.

03:47PM 3 Q. AND "ON THE 'ONE DROP A WORLD OF ANSWERS PANEL, I WOULD

03:47PM 4 ASSUME THAT WE ARE NOT PROVIDING EVERY TEST THAT ANYONE WOULD

03:47PM 5 EVER WANT. YOU MIGHT WANT TO STAY A FULL RANGE OF

03:47PM 6 STANDARD/COMMON/MOST FREQUENT TESTS"; RIGHT?

03:47PM 7 A. RIGHT.

03:48PM 8 Q. AND SO THIS IS AN EXAMPLE OF MR. HOLMES GETTING FEEDBACK

03:48PM 9 THROUGH MS. HOLMES ABOUT FEEDBACK FROM THE REGULATORY FOLKS AT

03:48PM 10 THERANOS; RIGHT?

03:48PM 11 A. RIGHT.

03:48PM 12 Q. AND THOSE REGULATORY FOLKS, THOSE ARE THE REGULATORY

03:48PM 13 LAWYERS WITHIN THERANOS; IS THAT CORRECT?

03:48PM 14 A. YES.

03:48PM 15 Q. AND HE'S COMMUNICATING -- MR. HOLMES IS COMMUNICATING THAT

03:48PM 16 FEEDBACK TO CHIAT/DAY; RIGHT?

03:48PM 17 A. RIGHT.

03:48PM 18 Q. SO THAT CHIAT/DAY CAN IMPLEMENT CHANGES TO THE MARKETING

03:48PM 19 MATERIALS; CORRECT?

03:48PM 20 A. CORRECT.

03:48PM 21 Q. OKAY. LET'S TURN TO 20167.

03:49PM 22 A. OKAY.

03:49PM 23 Q. AND TAKE A LOOK AT THAT EMAIL.

03:50PM 24 A. OKAY. IT'S A LONG EMAIL.

03:50PM 25 Q. I'M NOT GOING TO ASK YOU ABOUT EVERYTHING.

03:50PM 1 A. OKAY.

03:50PM 2 Q. GENERALLY SPEAKING, HAVING REVIEWED THE EMAIL, IS THIS AN

03:51PM 3 EMAIL THAT YOU'RE ON, MR. BALWANI IS ON, MS. HOLMES IS ON, AND

03:51PM 4 OTHERS ARE ON REGARDING A MEDIA INQUIRY FROM G2 INTELLIGENCE?

03:51PM 5 A. YES.

03:51PM 6 Q. AND IS THE DATE OF THE EMAIL SEPTEMBER 13TH, 2013?

03:51PM 7 A. YES. YES.

03:51PM 8 MS. WALSH: YOUR HONOR, WE OFFER 20167.

03:51PM 9 MR. BOSTIC: NO OBJECTION.

03:51PM 10 THE COURT: IT'S ADMITTED, AND IT MAY BE PUBLISHED.

03:51PM 11 (DEFENDANT'S EXHIBIT 20167 WAS RECEIVED IN EVIDENCE.)

03:51PM 12 BY MS. WALSH:

03:51PM 13 Q. LET'S TURN TO PAGE 7 OF THE EMAIL JUST TO ORIENT US.

03:51PM 14 DO YOU SEE THAT?

03:51PM 15 A. I DO.

03:51PM 16 Q. AND THIS IS AN EMAIL FROM LAURA FOGELMAN FROM GROW

03:51PM 17 MARKETING.

03:51PM 18 DO YOU SEE THAT?

03:51PM 19 A. YES.

03:51PM 20 Q. AND THIS IS TO MS. HOLMES, MR. BALWANI, YOU AND OTHERS;

03:51PM 21 RIGHT?

03:51PM 22 A. YES.

03:51PM 23 Q. AND BY THE WAY, WHAT WAS GROW MARKETING?

03:51PM 24 A. IT WAS A MARKETING AND COMMUNICATIONS COMPANY THAT

03:52PM 25 THERANOS CONSULTED WITH IN PREPARATION FOR THE WALGREENS

03:52PM 1 LAUNCH.

03:52PM 2 Q. OKAY. AND WHAT MS. FOGELMAN IS SAYING IS, "WE RECEIVED A

03:52PM 3 MEDIA INQUIRY TODAY FROM RON SHINKMAN OF G2 INTELLIGENCE, A

03:52PM 4 CREDIBLE LAB INDUSTRY PUBLICATION."

03:52PM 5 DO YOU SEE THAT?

03:52PM 6 A. YES.

03:52PM 7 Q. AND THEN IF YOU GO FORWARD TO PAGE 4, THIS IS AN EMAIL

03:52PM 8 FROM JEFF BLICKMAN TO YOU, AND MR. BALWANI, AND MS. HOLMES, AND

03:52PM 9 OTHERS; RIGHT?

03:52PM 10 A. YES.

03:52PM 11 Q. AND IT SETS FORTH A LIST OF QUESTIONS FROM

03:53PM 12 G2 INTELLIGENCE?

03:53PM 13 A. RIGHT.

03:53PM 14 Q. THAT G2 INTELLIGENCE WANTED ANSWERED FOR THE PUBLICATION;

03:53PM 15 RIGHT?

03:53PM 16 A. CORRECT.

03:53PM 17 Q. AND I WANT TO DIRECT YOUR ATTENTION TO QUESTION NUMBER 7.

03:53PM 18 DO YOU SEE THAT?

03:53PM 19 A. YES.

03:53PM 20 Q. AND QUESTION NUMBER 7 FROM THE PUBLICATION ASKS, "HOW MUCH

03:53PM 21 BLOOD IS REQUIRED (IN NANOLITERS OR MICROGRAMS)? ALTHOUGH IT

03:53PM 22 IS MENTIONED IN THE RELEASE, HOW SPECIFICALLY WILL IT BE DRAWN?

03:53PM 23 THE BLOOD WILL BE DRAWN --" OH, I'M SORRY.

03:53PM 24 SO THAT'S THE QUESTION; RIGHT?

03:53PM 25 A. YES.

03:53PM 1 Q. AND THEN THE TEXT AFTER THAT IS MR. BLICKMAN ANSWERING THE
03:53PM 2 QUESTION; RIGHT?

03:53PM 3 A. THAT'S RIGHT.

03:53PM 4 Q. AND THEN MR. BLICKMAN SAYS THE BLOOD WILL BE DRAWN IN A
03:53PM 5 THREE STEP PROCESS -- PLACE FINGER WARMER ON PATIENT'S
03:53PM 6 FINGERTIP; CLEAN THE FINGER TIP; AND DEPRESS TINY LANCET ON
03:53PM 7 FINGER; TECHNICIAN COLLECTS BLOOD IN SMALL DISPOSABLE DEVICES
03:54PM 8 TO FILL OR NANOTAINER TUBES WITH A FEW DROPS OF SAMPLE.
03:54PM 9 DO YOU SEE THAT?

03:54PM 10 A. YES.

03:54PM 11 Q. AND SO THAT'S MR. BLICKMAN'S ANSWER TO QUESTION 7; RIGHT?

03:54PM 12 A. YES.

03:54PM 13 Q. AND THEN IF WE GO TO PAGE 2, MR. BALWANI RESPONDS.
03:54PM 14 DO YOU SEE THAT?

03:54PM 15 A. YES.

03:54PM 16 Q. AND HIS RESPONSE SPILLS OVER ON TO PAGE 3.
03:54PM 17 AND WHAT I WANT TO FOCUS ON IS WHAT HE ADDS TO QUESTION 7.
03:54PM 18 DO YOU SEE THAT?

03:54PM 19 A. YES.

03:54PM 20 Q. OKAY. AND WHAT HE ADDS IN ALL CAPS IS, "FIX THIS TO ALSO
03:54PM 21 INCLUDE VENIPUNCTURE. WE DON'T WANT TO BE CONFUSED WITH POINT
03:54PM 22 OF SERVICE FINGERSTICK TECHNOLOGY. YOU CAN FOCUS ON SMALL
03:54PM 23 VOLUME. BLOOD VOLUME REQUIREMENTS VARY BY TEST."
03:54PM 24 DO YOU SEE THAT?

03:54PM 25 A. I DO.

03:54PM 1 Q. AND SO MR. BALWANI IS COMMUNICATING THIS NEEDS TO BE
03:55PM 2 FIXED, WE NEED TO SAY VENIPUNCTURE; RIGHT?
03:55PM 3 A. RIGHT.
03:55PM 4 Q. AND THIS IS TO A JOURNALIST WHO IS GOING TO PUBLISH
03:55PM 5 SOMETHING FOR THE PUBLIC TO READ ABOUT THERANOS; CORRECT?
03:55PM 6 A. CORRECT.
03:55PM 7 Q. OKAY. WE CAN TAKE THAT DOWN.
03:55PM 8 LET'S GO TO 10554 IN YOUR BINDER, MR. EDLIN.
03:55PM 9 A. OKAY.
03:55PM 10 Q. IS THIS AN EMAIL WITH YOU, MR. BALWANI, AND MS. HOLMES,
03:55PM 11 AND GROW MARKETING RELATING TO THE JOE RAGO INTERVIEW?
03:55PM 12 A. YES.
03:55PM 13 Q. AND IS THE DATE OF THE EMAIL AUGUST 20TH, 2013?
03:56PM 14 A. YES.
03:56PM 15 MS. WALSH: YOUR HONOR, WE OFFER 10554.
03:56PM 16 MR. BOSTIC: NO OBJECTION.
03:56PM 17 THE COURT: IT'S ADMITTED, AND IT MAY BE PUBLISHED.
03:56PM 18 (DEFENDANT'S EXHIBIT 10554 WAS RECEIVED IN EVIDENCE.)
03:56PM 19 BY MS. WALSH:
03:56PM 20 Q. AND THIS IS JOE RAGO FROM "THE WALL STREET JOURNAL";
03:56PM 21 CORRECT?
03:56PM 22 A. CORRECT.
03:56PM 23 Q. AND SO MS. FOGELMAN ON -- JUST TO SHOW THE HEADER ON
03:56PM 24 PAGE 1, SHE'S EMAILING YOU, AND MR. BLICKMAN, AND MR. BALWANI,
03:56PM 25 AND OTHERS FOR THERANOS STATS/SOURCES FOR JOE RAGO INTERVIEW.

03:56PM 1 DO YOU SEE THAT?

03:56PM 2 A. YES.

03:56PM 3 Q. AND IF WE GO TO PAGE 2, ONE ITEM THAT SHE'S LOOKING FOR IS
03:56PM 4 THE FIFTH BULLET DOWN FROM THE TOP WHERE IT SAYS, "THE PRE- AND
03:57PM 5 POST-ANALYTICAL PHASES OF THE LAB TESTING PROCESS AMOUNT FOR
03:57PM 6 93 PERCENT OF ERRORS."

03:57PM 7 AND SHE ASKS, "IS THERE A MORE RECENT STATISTIC THAN THIS
03:57PM 8 1993 AACC ARTICLE?"

03:57PM 9 DO YOU SEE THAT?

03:57PM 10 A. I DO.

03:57PM 11 Q. AND THEN LET'S GO TO THE TOP EMAIL. AND THIS IS
03:57PM 12 MR. HOLMES RESPONDING TO MS. FOGELMAN'S INQUIRY; RIGHT?

03:57PM 13 A. RIGHT.

03:57PM 14 Q. AND HE GOES THROUGH A NUMBER OF DIFFERENT ITEMS BUT WITH
03:57PM 15 REGARD TO WHAT HE JUST ASKED AND I JUST READ, MR. HOLMES SAYS,
03:57PM 16 "THE SOURCE OF THIS STAT CAME FROM A CLINICAL CHEMISTRY ARTICLE
03:57PM 17 IN 1993, AS WE SENT EARLIER, BUT THIS STATISTIC IS STILL OFTEN
03:57PM 18 MENTIONED IN MORE CONTEMPORARY ARTICLES. FOR EXAMPLE, THE
03:57PM 19 IDENTIFICATION OF THE TYPES OF PREANALYTICAL ERRORS IN THE
03:57PM 20 CLINICAL CHEMISTRY LABORATORY PUBLISHED BY LABMEDICINE IN 2009
03:57PM 21 CITES THE ARTICLE/STAT IN 1993 IN ITS FIRST FOOTNOTE."

03:58PM 22 DO YOU SEE THAT?

03:58PM 23 A. YES.

03:58PM 24 Q. OKAY. AND SO THIS IS CHRISTIAN HOLMES TRYING TO
03:58PM 25 SUBSTANTIATE THE DIFFERENT BULLETS THAT MS. FOGELMAN IS ASKING

03:58PM 1 ABOUT; RIGHT?

03:58PM 2 A. RIGHT.

03:58PM 3 Q. ALL IN PREPARATION FOR THE RAGO INTERVIEW OF MS. HOLMES;
03:58PM 4 CORRECT?

03:58PM 5 A. YES.

03:58PM 6 MS. WALSH: YOUR HONOR, I AM AT A BREAKING POINT, IF
03:58PM 7 THE COURT IS AT A CONVENIENT POINT TO BREAK FOR THE DAY.

03:58PM 8 THE COURT: YOU'RE NOT GOING TO FINISH IN TWO
03:58PM 9 MINUTES?

03:58PM 10 MS. WALSH: NO, I AM NOT.

03:58PM 11 THE COURT: ALL RIGHT. LET'S TAKE OUR BREAK, LADIES
03:58PM 12 AND GENTLEMEN. WE'RE GOING TO RECESS NOW. REMEMBER, WE'LL
03:58PM 13 RESUME ON FRIDAY, AND WE WILL RESUME ON FRIDAY, AND WE WILL END
03:58PM 14 OUR FRIDAY AT NOON.

03:58PM 15 SO LET ME REMIND YOU OF THE ADMONISHMENT.

03:59PM 16 PLEASE DO NOT DO ANY INVESTIGATION OR IN ANY WAY ATTEMPT
03:59PM 17 TO LEARN ANYTHING ABOUT THIS CASE, DO NOT DISCUSS THE CASE,
03:59PM 18 SEE, WATCH, READ OR VIEW ANYTHING TO DO WITH IT.

03:59PM 19 WITH THAT ADMONISHMENT, HAVE A GOOD EVENING. WE'LL SEE
03:59PM 20 YOU ON FRIDAY.

03:59PM 21 I'M GOING TO ASK JUROR NUMBER 8, IF YOU COULD STAY JUST
03:59PM 22 FOR A MOMENT, PLEASE. JUROR NUMBER 8, IF YOU COULD REMAIN.

03:59PM 23 BUT EVERYONE ELSE, HAVE A GOOD EVENING. WE'LL SEE YOU
03:59PM 24 FRIDAY.

03:59PM 25 LIKEWISE, MR. EDLIN, WE'LL SEE YOU FRIDAY MORNING AT

03:59PM 1 9:00 O'CLOCK.

03:59PM 2 THE WITNESS: YES, YOUR HONOR.

03:59PM 3 THE COURT: THANK YOU.

03:59PM 4 (JURY OUT AT 3:59 P.M.)

04:00PM 5 (JUROR NUMBER 8 PRESENT.)

04:00PM 6 THE COURT: ALL RIGHT. THANK YOU. PLEASE BE
04:00PM 7 SEATED. THANK YOU.

04:00PM 8 ALL RIGHT. THE RECORD SHOULD REFLECT THAT OUR JURY HAS
04:00PM 9 LEFT FOR THE DAY.

04:00PM 10 ALL COUNSEL ARE PRESENT.

04:00PM 11 JUROR NUMBER 8 IS PRESENT.

04:00PM 12 SIR, I WANTED TO TALK TO YOU ABOUT SOME INFORMATION THAT
04:00PM 13 WAS DELIVERED TO ME THROUGH OUR COURTROOM DEPUTY.

04:00PM 14 THIS DOES INVOLVE -- AND MY SENSE IS THAT IT IS GOING TO
04:00PM 15 INVOLVE SOME PERSONAL INFORMATION ABOUT YOU IN REGARDS TO YOUR
04:00PM 16 SERVICE HERE. YOU'RE NOT IN TROUBLE, LET ME JUST SAY THAT. IT
04:00PM 17 HAS NOTHING TO DO WITH THAT. IT'S JUST REALLY ABOUT YOUR
04:00PM 18 SCHEDULING AND SCHEDULING FOR YOU, AND I THINK IT MAY TOUCH ON
04:01PM 19 SOME PERSONAL MATTERS.

04:01PM 20 SO TO THAT EXTENT, AND TO RESPECT YOUR PRIVACY, I AM GOING
04:01PM 21 TO INDICATE THAT THESE PROCEEDINGS SHOULD BE SEALED NOW AS WELL
04:01PM 22 AS THIS PORTION OF THE TRANSCRIPT. SO ANYONE WHO IS NOT
04:01PM 23 ATTACHED TO THIS CASE, THAT IS, A MEMBER OF THE DEFENSE TEAM OR
04:01PM 24 PROSECUTION TEAM, I'M GOING TO ASK YOUR CONSIDERATION AND IF
04:01PM 25 YOU COULD LEAVE THE COURTROOM, PLEASE.

04:01PM

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THANK YOU.

(SEALED PROCEEDINGS PAGES 2718 - 2724.)

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT REPORTER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

A handwritten signature in black ink that reads "Irene Rodriguez". The signature is written in a cursive, flowing style with a large, decorative flourish at the end of the last name.

IRENE RODRIGUEZ, CSR, RMR, CRR
CERTIFICATE NUMBER 8074

DATED: APRIL 13, 2022